POLICE OFFICERS MANUAL

WITH

FORMS OF CHARGES

AND

OUTLINES OF EVIDENCE

FOR

CRIMINAL OFFENCES

FIRST EDITION

BY

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TORONTO:
THE CARSWELL COMPANY, LIMITED
145-149 Adelaide Street, West
1931

To Major-General Victor A. S. Williams, C.M.G., Commissioner of Police for Ontario, a gallant soldier and efficient administrator, with whom we have had the honour of being associated on active service overseas, and during his régime as Commissioner, this book is affectionately and respectfully dedicated.

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PREFACE

This booklet is intended to fill a long felt want for a compendium of the Criminal Law, with forms of charges and some indication of the evidence necessary to support them, together with notes on many allied matters of use and interest to Police Officers and others engaged in the administration of justice in Canada.

It should be stated that the words "warrant to arrest is necessary," do not mean that a warrant to arrest should be obtained in cases where a summons will suffice. The phrase merely means that an arrest without a warrant on that particular charge is not authorized, unless committed in sight of the officer, or where the offender is just escaping after committing it. See Code, sections 648 and 649.

The time limit within which proceedings should be instituted is indicated under the paragraph headed "Evidence," beneath each offence where a limitation exists. There are few of these in the case of indictable offences, but in the case of summary conviction offences, as a general rule the charge must be laid within six months unless otherwise noted.

This is not a law book. Technical language has been avoided as far as possible. The alphabetical arrangement, cross-references and convenient form and size will, it is hoped, make it a book every ambitious police officer will carry in his pocket. We trust that the police of Canada, with its aid, may be enabled to enhance their reputation as the bulwark of peace, order and good government.

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Toronto, August, 1931.

POLICE OFFICERS MANUAL

ABDUCTION

1. Of a woman against her will.
2. Of an heiress.
3. Of girl under 16.
4. Of child under 14.

1. Of a woman of any age against her will to carnally know or cause her to be married or carnally known.

Code, s. 313. Indictable.

A.B., at , on , did against her will take away (or *detain*) *one C.D. a woman with intent to marry* (or *carnally know*) (or *to cause to be married* or to cause to be carnally known *by some other person*) *the said C.D. contrary to section 313 of the Criminal Code.*

Warrant to arrest is not required.

Evidence.—This section covers women of any age and whether married or single. Prove that accused took away or detained C.D. without her consent. If she goes away voluntarily but afterwards refuses to continue and is detained the offence is within the section. Prove the intent stated by declarations or acts of accused or by circumstances from which the intent may be presumed. Wife is competent and compellable witness, sec. 4. Evidence Act.

2. Of an heiress with the intent as in No. 1, against her will with motives of lucre, or fraudulently allures, takes away or detains against the will of her guardian if she be under twenty-one.

Code, s. 314. Indictable.

A.B., at , on , did from motives of lucre take away (or *detain*) *against her will one C.D. a woman with intent* *to marry* (OR *carnally know*) *the said C.D.* (OR *with intent to cause her to be married to* (OR *carnally known by*) *E.F.*) *she the said C.D. then having an interest in real* (OR *personal*) *estate* (OR *she then being a presumptive heiress* (OR *co-heiress* OR *next-of-kin*)) *of G.H. who then had an interest amounting to $ in real* (OR *personal*) *estate contrary to section 314(a) of the Criminal Code.*

OR

did fraudulently allure (OR *take away* OR *detain*) *one C.D. a woman under the age of twenty-one years with intent* (AS ABOVE) *out of possession and against the will of her father* (OR *mother* OR *E.F. a person then having lawful care or charge of her*) *and she the said C.D. then having an interest in real* (OR *personal*) *estate* (CONTINUE AS IN ABOVE) *contrary to section 314(b) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—This is similar to No. 1 except that two additional ingredients must be shown (1) motive of lucre, (2) the woman to be an heiress.

3. OF AN UNMARRIED GIRL UNDER 16, out of the possession of her guardian.

Code, s. 315. Indictable.

A.B., at , on , did unlawfully take (OR *cause to be taken*) *one C.D. an unmarried girl under the age of sixteen years out of the possession and against the will of her father* (OR *mother* OR *E.F. a person then having the lawful care or charge of her*) *contrary to section 315 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—It is immaterial that the girl is taken at her own suggestion or that the accused believed her to be above sixteen. An entry in the books of an incorporated society by which the child is brought to Canada is prima facie evidence of age (s. 984). An elopement with a girl under 16 without consent of her parent or guardian is an offence. It should be proved she is under 16 and unmarried. It is unnecessary to prove intent to carnally know. If the girl is not living under any guardianship but is maintaining herself it has been held no offence.

4. OF CHILD UNDER 14 by enticing or detaining or receiving or harbouring with intent to deprive the parent or guardian of the possession or to steal any article about the child's person.

Code, s. 316. Indictable.

A.B , at , on , did take (OR *entice away*) (OR *detain*) *a child named C.D. under the age of fourteen years*[1] *with intent to deprive the parents* (OR *guardians* NAMING THEM) *of the possession of the said child* (OR[1] *with intent to steal a certain article to wit (describe) then being on or about the person of such child*) *contrary to section 316(a) of the Criminal Code,*

OR

did receive (OR *harbour*) *a child named C.D. under the age of fourteen years knowing the said C.D. to have been theretofore taken with the intent (as above) contrary to section 316(b) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—This covers either boys or girls. It has been held that it is not necessary that the accused should intend to deprive the parents permanently of possession. A husband or wife may be guilty of taking from the possession of either one having lawful custody. A person who gets possession claiming in good faith a right to possession is excepted from the section (s.s. 2). In absence of proof of age it may be presumed (s. 984) from appearance.

ABORTION

1. Main offence.
2. Self-abortion.
3. Supplying drugs, etc.
4. Advertising drugs, etc.

1. Main offence.—Procuring or attempting to procure the miscarriage of a woman whether or not she is with child.

Code, s. 303. Indictable.

A.B., at , on , did unlawfully administer to (OR *cause to be taken by*) *a woman, to wit, C.D. a drug* (OR *noxious thing*) *to wit* (*state what*) (OR *did unlawfully use upon a woman, to wit C.D. an instrument* (OR STATE THE OTHER MEANS USED)) *with intent to procure the miscarriage of the said C.D. contrary to section 303 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Oil of savin, yellow jasmine or gelsemium and ergot are drugs which have been held to be drugs which may act on the womb to expel the *foetus*. Medical evidence will be necessary to prove that the drug used and the quantity was a noxious drug. To negative a defence of innocent intent evidence may be given tending to prove attempt by methods other than those charged. If death occurs the charge is murder although in practice it is usual to charge manslaughter.

2. Woman attempting to procure her own miscarriage or permitting to be administered to her any noxious thing or permitting instruments to be used upon her.

Code, s. 304. Indictable.

Information as above with necessary changes: "*did unlawfully administer* (OR *permit to be administered*) *to herself.*"

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—See above.

3. Supplying drugs etc. or instruments knowing them to be intended to be used to procure a miscarriage.

Code, s. 305. Indictable.

A.B., at , on , did unlawfully supply to C.D. (OR *procure*) *a drug* (OR *noxious thing* OR *an instrument* OR STATE THE OTHER THING) *knowing it was intended to be unlawfully used with intent to procure the miscarriage of a woman, to wit: E.F. contrary to section 305 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—See above.

4. Advertising drugs or instructions intended or represented to be a means to cause a miscarriage, or having the same for sale, or publishing such an advertisement.

Code, s. 207(c). Indictable.

A.B., at , on , did without lawful justification or excuse offer to sell (OR *advertise*, OR *publish an advertisement* OR *have for sale or disposal*) *a drug to wit* (*describe*) (OR *an article* OR *instructions*) *intended or represented as a means to cause an abortion or miscarriage contrary to section 207(c) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Subsection 2 provides that no one shall be convicted if he prove that the public good was served by what was done. Subsection 4 provides that the motive shall be irrelevant. Put the advertisement (if any) in as an exhibit, or prove the offer to sell or having for sale and the intended or represented use.

ACCESSORY AFTER THE FACT

ACCESSORY AFTER THE FACT is one who receives, comforts or assists anyone who has been a party to an offence in order to assist him to escape. A husband or wife does not become an accessory after the fact for assisting his or her spouse to escape, nor does a wife who assists any other person in order to enable her husband to escape. (Code, s. 71.)

Code, ss. 574-5. Indictable.

A.B., at , on , well knowing that one C.D. (OR *a person or persons unknown*) *did* (*state the offence according* *to the form given) he the said A.B. did afterwards receive or comfort* (OR *assist*) *the said C.D.* (OR *person or persons*) *in order to enable them to escape contrary to section 574* (OR *575* IF THE OFFENCE IS PUNISHABLE WITH LESS THAN 14 YEARS' IMPRISONMENT) *of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—There are three essentials to this crime, (1) there must have been an indictable offence completely committed by the person assisted; (2) the accessory must know that the person whom he assists has committed the offence; (3) the assisting must be to enable him to escape. If A. assist B. to escape after he had wounded C. but before C. die, A. is accessory to wounding not to murder because when he assisted there was no murder.

Misprison of felony, a misdemeanor at Common Law not provided for in the Code and therefore still in force in Canada, consists in concealing a felony known to have been committed. It differs from accessory after the fact in that no actual assistance to the criminal is necessary. It is founded on the duty subjects owe to the King to inform on criminals. It also applies to Treason.

ACCESSORY BEFORE THE FACT

ACCESSORY BEFORE THE FACT is abolished as an offence. Any person who under the old law was an accessory before the fact is now a principal by the Code, section 69, which declares that everyone is a party to and guilty of an offence who,

(a) actually commits it;

(b) does or omits an act for the purpose of aiding any person to commit the offence;

(c) abets any person in commission of the offence; or

(d) counsels or procures any person to commit the offence.

If several persons form a common purpose to commit an offence and to assist each other, each one is guilty of every offence committed by any one of them in carrying out the common purpose. (Code, s. 69.)

ACCIDENT, FAILURE TO RETURN TO SCENE

Failure by a motor car driver to stop his car, after an accident with intent to escape liability either civil or criminal and who drives on without tendering assistance and giving his name and address.

Code, s. 285(2). Summary conviction.

A.B., at , on , being the driver of motor car license no. , in collision with C.D., did fail to stop the said car and with intent to escape either civil or criminal liability did drive on without giving his name and address (OR *without rendering assistance*) *to the said C.D., contrary to the Criminal Code, section 285(2).*

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—The accused must be proved to have been driving the car (not merely the owner of it); prove the accident and that accused drove off without giving his name and address or without offering assistance. The intent to escape liability will be inferred and the defendant will be put on his defence.

ACID

ACID, throwing, see "EXPLOSIVES."

ADMIRALTY OF ENGLAND

Offences by aliens committed within the jurisdiction of the Admiralty of England may only be instituted in Canada with the leave of the Governor-General and on his certificate that it is expedient that the proceedings should be instituted. (Code, s. 591.) The Admiralty jurisdiction extends to British ships on the high seas and to foreign ships in British waters. It has been held that the prosecution may be commenced and the accused remanded to obtain the necessary consent.

ADVERTISEMENT IMITATING BANK NOTE OR GOVERNMENT SECURITY

Designing, engraving, printing or in any manner making, distributing, circulating or using any card, notice, circular, or advertisement in the likeness of similitude of any bank note, or any obligation or security of any government or bank.

Code, s. 551. Summary conviction.

A.B., at , *on* , *did engrave* (or *print*, or *make*, or *execute*, or *circulate*, or *use*, *stating how*) *a certain business* (*or professional*) *card* (or *notice*, or *placard*, or *circular*, or *hand bill*, or *advertisement*) *in the likeness or similitude of a bank note of the* *bank* (or *of a share, or debenture of the* *bank, or a debenture of the government of*) *contrary to the Criminal Code, section 551.*

Warrant to arrest is required.

Evidence.—Produce the imitation: if it is alleged to be an imitation of a bank note or security an officer of the bank may be subpœned to produce an original, or an officer of the Receiver General's Department if it is alleged to be in imitation of a government security. Any bank officer could, of course, give expert evidence within his knowledge of any security. Banknote is defined in the Code, s. 2(4).

ADVERTISING FALSELY

Publishing or causing to be published an advertisement for promoting the sale of any real or other property which contains a false statement likely or intended to enhance the price.

Code, s. 406 (2). Summary Conviction.

A.B. at , *on* , *did publish* (or *cause to be published*) *a certain advertisement, to wit* (here set out the advertisement) *which advertisement contains a false statement or representation which is likely to or is intended to enhance the price or value of the article* (or thing) *therein mentioned contrary to the Criminal Code, section 406(2).*

Warrant to arrest is required.

Evidence.—Produce the advertisement, show that it contains false representations or statements: that the price of the article or thing is enhanced beyond its value by such advertisement.

Advertising falsely.—That goods are made by a person holding a royal warrant or for His Majesty, any of the royal family or a government department.

Code, s. 492. Summary conviction.

A.B., at , *on* , *did falsely represent that certain goods, to wit* (name the goods) *were made by a person holding a royal warrant* (or *for His Majesty* or *otherwise as in the section*) *for the purpose of enhancing the sale thereof contrary to the Criminal Code, section 492.*

Warrant to arrest is necessary.

Evidence.—Although the section says nothing about attempting to advance the sale of the goods by the pretence dealt with in the section, it is submitted that that is the substance of the offence.

ADVERTISING IMMUNITY FROM PROSECUTION

See Perjury, 7.

AFFIDAVIT, SIGNING PRETENDED

See Perjury, 9.

AFFRAYS

An affray is the act of fighting in any public street or to the alarm of the public, where the public have access.

Code, s. 100. Indictable.

A.B., and C.D., at , *on* , *did commit the act of fighting on the public street* (or state the other place to which the public have access) *and did thereby take part in an affray contrary to section 100 of the Criminal Code.*

Warrant to arrest is necessary.

EVIDENCE.—Prove the fighting; that it took place in the street or highway, or if in any other place to which the public have access that the public were alarmed. It is not necessary that actual terror exist. Words are not sufficient.

AGE

By section 17 of the Criminal Code no one under seven years of age may be convicted of an offence, and by section 18 no one under fourteen may be convicted unless he was competent to know the nature and consequences of his act. This practically means that no one under fourteen can be convicted of crime unless he is far advanced for his age. Section 2, subsection 2 provides how age is reckoned. That is, a child under seven is presumed to be absolutely incompetent to commit crime because in most criminal offences the gist of the offence is mens rea (guilty mind); a child between seven and fourteen however is only prima facie incompetent, that is, he may be proved to be competent. Age may be inferred from appearance. Code, s. 984.

AGENT

Accepting secret commissions. See SECRET COMMISSIONS.

ALIEN ENEMY, ASSISTING TO ESCAPE

See ESCAPES, 2.

1. Killing, maiming, etc.
2. Cruelty generally.
3. Cruelty in railway.

ANIMALS

1. WILFULLY KILLS, maims, wounds, poisons or injures any dog, bird, beast or other animal, not being cattle, but being the subject of larceny at common law (animals wild by nature were not subject to larceny at common law) or ordinarily kept in a state of confinement; or places poison or sends letter threatening to do the above.

Code, s. 537. Summary Conviction, subsequent offence is indictable.

A.B., at , on , did wilfully kill (OR *maim, wound, poison or injure*) *a dog* (OR DESCRIBE THE KIND OF ANIMAL OR BIRD) *the property of C.D. contrary to the Criminal Code, section 537.*

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—The gist of the offence is that the offence was committed wilfully. This may be proved by circumstances. See also MISCHIEF, sec. 539.

Letters threatening injury to cattle, see "THREATS TO INJURE CATTLE."

CRUELTY TO.

2. Wantonly, cruelly or unnecessarily beats, binds, ill-treats, over-drives, tortures, fails to provide food or shelter for any cattle, poultry, dog or bird or wild animal in captivity, or inflicts unnecessary suffering whilst being conveyed, or administers injurious drugs or takes part in any meeting, etc., where captive birds are liberated to be shot at.

Code, s. 542. Summary conviction.

A.B., at , on , wantonly (OR *cruelly* OR *unnecessarily*) *beat* (OR *abused* OR *failed to provide food* OR *describe what was done*) *a horse* (OR *describe the animal or bird*) *contrary to section 542 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

Limitation is 3 months.

3. Railway companies conveying cattle must unload them every thirty-six hours for rest and food at least for five hours. Calves under three weeks old other than calves at the foot of milch cows or pure bred calves must not be conveyed. There must be no overcrowding, nor shall a mature bull be conveyed with other cattle unless tied by the head.

Code, s. 544. Summary conviction.

A.B., at , on , having the conveyance of cattle (DESCRIBE THEM) *from , to , did confine the same in a car* (OR *vessel*) *for a period longer than thirty-six hours without unloading the same for rest, water and feeding for a period of five consecutive hours* (OR *overcrowd a box car by permitting 100 cattle to be loaded therein, thus causing unnecessary suffering to such cattle*), *contrary to section 544 of the Criminal Code.*

EVIDENCE.—1. Prove the beating or injury or failure to provide food. The evidence of a veterinary surgeon is valuable. 2. It is not necessary to prove injury. A police officer may enter any premises at any time to see that the provisions are being observed. Everyone refusing admission to such officer is guilty of an offence. Sec. 545 (2). The offence may be tried where the cars, etc., are unloaded (s. 545A). Limitation is 3 months under both sections.

ARREST

1. Method of arrest.
2. Without warrant.
3. With warrant.
4. Where warrant issues.
5. Fresh pursuit.
6. On telegrams for other police.
7. Treatment after arrest.
8. Handcuffing.
9. "Backing" warrant.
10. Force in arresting.
11. Of persons in other gaols.

Resisting, see "OBSTRUCTING."

1. Arrest consists of the actual touching or seizing of a person's body with a view to his detention. The mere pronouncing of words without touching the body of the person sought to be arrested is not an arrest unless the person submit to the process and goes with the arresting officer. If he does submit it is a valid arrest; if he does not there can be no arrest unless the officer lay hold of him. If an officer pronounces the words of arrest (without touching the person) and the person flees there has been no arrest and therefore no escape from custody. The officer should place his hand on the shoulder or arm (any touching is sufficient) of the person to be arrested and showing his badge of authority and the warrant to arrest (if any) should say "I arrest you in the King's name." Any words however expressing the intention are sufficient, such as "You are my prisoner," "I arrest you," or "You are under arrest."

2. A police officer may arrest without a warrant any one whom he finds committing any offence (Code, s. 648). Section 35 justifies an officer who finds a person committing any offence, in arresting him. The arrest might otherwise constitute an assault, especially where the offence is a non-criminal one.

A police officer may arrest without a warrant any one whom he on reasonable and probable grounds believes to have committed any of the following offences, whether such person is guilty or not (Code, ss. 30, 646, 647) treason; accessory after the fact to treason; treasonable offences; assault on the King; inciting to mutiny; information illegally obtained or communicated; offences respecting reading of Riot Act; riotous destruction of property; riotous damage to property; administering, taking or procuring oaths to commit certain crimes, or other unlawful oaths; piracy; piratical acts; being at large while under sentence of imprisonment; breaking prison; escape from custody; unnatural offences; murder; attempted murder; accessory after fact to murder; manslaughter; attempted suicide; wounding; stupefying in order to commit indictable offence; injuring or attempting to injure by explosive; intentionally or wantonly endangering persons on railway; preventing escape from wreck; rape; attempted rape; carnal knowledge of girl under 14; abduction of woman; theft; breach of trust; public servant refusing to deliver up chattels, money, etc.; destroying document of title; bringing stolen property into Canada; receiving; personation; robbery; attempted robbery; stopping the mail; compelling execution of document; sending letter demanding with threats; demanding with intent to steal; extortion by threats; breaking place of worship; burglary; housebreaking; shopbreaking; found in dwelling house by night; being armed with intent to break into dwelling; disguised by night or in possession of house-breaking instruments; forgery; uttering; counterfeiting seals; using probate obtained by forgery or perjury; possession forged bank notes; making, having or using instrument for forgery or having or uttering forged bonds; counterfeiting stamps; injuring or falsifying registers; attempt to damage by explosives; mischief; arson; attempted arson; setting or attempting to fire crops; injuries to telegraph, telephone and fire alarms; wrecking; attempting to wreck; interfering with marine signals; counterfeiting coin; making instruments for coining; clipping coins; possession of clippings; counterfeiting foreign coin; uttering copper coin not current; false pretences; execution of security by false pretences; injuring dams or blocking timber channel; attempt to injure or poison cattle; cruelty to animals; keeping cock-pit; exporting counterfeit coin; possession of counterfeit current coin; possession of counterfeit foreign gold or silver coin, or persons whom he has good cause to suspect of having committed or being about to commit any offence in the Code, section 216; procuring (commonly known as White Slavery), living on the avails of prostitution, administering drug to have carnal connection.

See also as to deserters, section 657.

If an officer arrest any one without a warrant, whom he believes on reasonable and probable grounds to have committed an offence for which an offender may be arrested without a warrant, and subsequently discover that his grounds are faulty, the officer is justified in releasing the prisoner at once, without taking him before a justice.

A police officer is justified in arresting without warrant any person whom he finds lying or loitering in any highway, yard or other place by night and whom he has good cause to suspect of having committed or being about to commit any offence for which an offender may be arrested without warrant. Code, s. 652 (1).

Persons so arrested without warrant must not be detained after noon of the following day without being brought before a justice. Code s. 652 (2).

3. A warrant to arrest can only be executed by the constable, or one of the classes of constables to whom it is directed (Code, s. 661(2)). If it is directed to the constables of the Provincial Police Force it should not be executed by a county constable. It should be amended. Warrants may be executed on Sunday (Code, s. 661 (3)). A warrant is good only in the territory of the justice by whom it is issued unless in the case of fresh pursuit. If the accused is in gaol on some other charge application may be made to a county or supreme court judge for an order to the warden of the prison to deliver him up for trial (Code, ss. 662(4), 941, 977).

4. A warrant to arrest a person accused of an indictable offence may be issued by a justice

(a) where the alleged crime of the accused is triable in the province where the justice resides, and the accused is, or is suspected to be or resides or is suspected to reside in the territory over which the justice has jurisdiction;

(b) where the accused, wherever he may be, is accused of a crime committed within the justice's territory;

(c) if the accused is alleged to have unlawfully received anywhere, property unlawfully obtained in such territory;

(d) if the accused has in his possession in such territory, any stolen property (Code, s. 653).

The same applies to the issuance of a summons and the justice may proceed with a preliminary inquiry into such charges when the accused is brought before him.

The justice may also issue a warrant where the accused is alleged to have committed an indictable offence on the high seas or elsewhere within the jurisdiction of the Admiralty of England. (Code, s. 656).

Notwithstanding his jurisdiction to hold a preliminary inquiry where the accused was arrested within his jurisdiction on his warrant for an offence committed beyond his territory, the justice, after hearing both sides, may give a warrant to a constable directing him to take the accused to a justice having jurisdiction where the offence took place. (Code, s. 665.)

A coroner may also issue a warrant to an officer to arrest a person charged by the jury with murder or manslaughter, and to take him before a magistrate or justice. (Code, s. 667.)

5. "FRESH PURSUIT" means that if the police officer is pursuing the accused and the latter, during such pursuit, escapes beyond the boundary of the county of the justice by whom the warrant was issued, the police officer may follow him and arrest him within seven miles of the boundary, without the necessity of having the warrant "backed" (Code, s. 661). The seven miles are computed in a straight line according to cases on the point. Where the trail is lost and the pursuit abandoned another pursuit cannot be said to be "fresh pursuit." It is submitted that the pursuit must be continuous. A warrant under a provincial statute is not good beyond the borders of the province, even on fresh pursuit.

6. AN ARREST ON A TELEGRAM from other police departments should only be made where speed is essential. An officer might be justified on such information in arresting an offender for an offence for which an arrest without warrant could be made, but should the prisoner apply for *Habeas Corpus* he would be at once released. It is better to have the warrant sent down or in urgent cases a charge of vagrancy may be laid, which is usually sufficient to hold the accused until the police officer with the warrant arrives. Telegrams from foreign police are dealt with under "EXTRADITION."

7. A warrant may be executed on Sunday or holidays (Code, s. 661 (3)). In offences under the Code it may be executed by the officer who laid the information, unless he is acting in other than his official capacity. If he has any personal interest to serve he is disqualified from executing it. After an arrest for an indictable offence the officer should at once search the person of the prisoner and take from him anything connected with the offence or weapons. It would be trespass for a search of the person to be made in some trivial cases, such as non-attendance of a witness on a summons. When a prisoner's money and personal effects are taken away from him they should be placed in a bag or box and a list of them made out and signed by the prisoner. When they are returned to him a receipt must be obtained for the officer's protection.

The accused should be brought by the officer before the justice who issued the warrant, or some other justice of the same county, as soon as practicable (Code, s. 664). If the warrant is executed outside the jurisdiction of the justice who issued it, the justice who "backs" the warrant may direct the officer who executes it to bring the accused before him (Code, s. 663).

8. A prisoner arrested for a trivial offence should not be handcuffed, especially a known resident. No one should be handcuffed unless from the nature of the offence, the prisoner's character, or resistance to arrest, the officer has reason to believe the prisoner might escape. The officer must have some sufficient reason for that degree of violence. Unnecessarily hustling any prisoner, possibly an innocent man along a public street, as well as other unduly harsh treatment, might be considered a trespass and an assault, especially if he is handcuffed.

9. "BACKING" A WARRANT is the procedure of taking a warrant before a justice in some other part of Canada than the county where it is issued and asking such justice to endorse it (Code, s. 662), so that it may be executed in his territory. The officer taking the warrant to be "backed" should have seen it signed by the justice by whom it was issued, because he may be asked by the justice who endorses it to swear that he saw it signed, although the section requires only proof of the handwriting, and an officer familiar with it could prove it by recognition.

10. An officer lawfully making any arrest is justified in using such force as may be necessary to overcome any resistance offered to such arrest, unless the arrest can be made by less violent means (Code, s. 39). The constable may break open a door, but before doing so he must make reasonable demands for admittance and explain who he is. Where his authority is resisted he may repel force by force, and will be justified, even if death should ensue; yet he will be responsible if he comes to extremities without necessity. An officer is protected from criminal responsibility in using such force to prevent the rescue or escape of a prisoner charged with an offence for which he may be arrested without warrant, as he believes to be necessary, unless the escape can be prevented by means less violent (Code, s. 41).

For use of firearms, see "OFFENSIVE WEAPONS."

11. If the person sought to be arrested is in some other gaol in the province, an order may be obtained from a county or superior court judge, on application, accompanied by the warrant and an affidavit setting forth the facts, addressed to the keeper of the gaol to bring such prisoner before the magistrate for preliminary hearing (sec. 662 (4)). If the prisoner is out of the province the proceedings are provided for in sec. 662 (5). If the accused is wanted for trial on an indictable offence and is in a prison within the jurisdiction of the court of trial, such court may order his production (sec. 941). A superior or county

court judge may order the production of a prisoner for trial in an indictable case (sec. 977) or as a witness.

ARSON AND FIRES

1. Arson generally.
2. With intent to defraud.
3. Attempt.
4. Crop, timber, etc., and attempts.
5. Forest fires.
6. Refusing to obey order of fire officer.

Threats to burn, see "THREATS."

1. ARSON is the act of wilfully, without legal justification or excuse and without colour of right, setting fire to any building or structure, completed or not, or stack of vegetable produce, or mineral or vegetable fuel, or any mine or oil or other well, or any ship, or material in a shipyard or to any Government stores.

Code, s. 511 (1). Indictable.

A.B., at , on , wilfully, without legal justification or excuse and without colour of right did set fire to a certain building, to wit, a dwelling-house (OR *one of the things mentioned above*) *belonging to C.D. contrary to section 511 (1) of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

2. WILFULLY BURNING ANY CHATTEL having a value of more than two hundred dollars for any fraudulent purpose.

Code, s. 511 (2). Indictable.

A.B., at , on , wilfully, without legal justification or excuse and without colour of right and with intent to defraud, did set fire to a certain automobile belonging to him the said A.B., such automobile having a greater value than two hundred dollars, contrary to section 511 (2) of the Criminal Code.

WARRANT TO ARREST IS NOT REQUIRED.

3. ATTEMPTING to set fire to the above or setting fire to anything so situated that he knows anything mentioned above is likely to catch fire.

Code, s. 512. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE. Persons who cause events by acts which they know will probably cause them being reckless whether the event happens or not are deemed to cause them wilfully, sec. 509. The act must be done without legal justification or excuse and without colour of right, sec. 541, so a man may burn down his own house if he does not intend to defraud any person, as in No. 2. However if the house is mortgaged it is probably an offence, sec. 541 (2). If, in burning his own house, he sets fire to a neighbour's, he is punishable under No. 3. The proof is usually made out by circumstantial evidence. If the charge is an attempt to defraud an insurance company, evidence of the insurance is necessary to show that it is in force.

4. CROPS, standing or cut, or any tree, lumber, timber, etc., and thereby injures or destroys the latter.

Code, s. 513. Indictable.

A.B., at   *, on*   *, wilfully and without legal justification or excuse and without colour of right did* [2] *set fire to* [1] *a crop of standing* (OR *cut*) *hay* (OR *as the case may be*) *the property of C.D. contrary to section 513* (*a*) *of the Criminal Code.*

OR

[1] *a pile of lumber* (OR *as the case may be*) *the property of C.D. and did thereby injure* (OR *destroy*) *the said lumber, contrary to section 513* (*b*), *etc.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE, see above.

The attempt is punishable as mentioned in No. 3, sec. 514.

[2] *attempt to set fire to a certain* (STATE WHAT), *the property of C.D., contrary to section 514, etc.*

OR

[2] *set fire to a quantity of brush* (OR *as the case may be*) *which then was so situated that he the said A.B. knew that a certain crop belonging to C.D., then growing on adjacent land, was likely to catch fire therefrom, contrary to sec. 514, etc.*

WARRANT TO ARREST IS NOT REQUIRED.

5. FOREST FIRES, by negligence as shows reckless or wanton disregard of consequences or in violation of provincial or municipal law sets fire to any forest or lumber, etc., so that the same is injured or destroyed; or by negligence causes any fire which occasions loss of life or property.

Code, s. 515. Indictable.

A.B., at   *, on*   *, did by such negligence as shewed him to be reckless or wantonly regardless of consequences* (DESCRIBE) *set fire to the forest* (OR *to certain manufactured lumber* OR *to square timber* OR *logs*) *then being on the Crown domain* (OR *then being on land leased or lawfully held by C.D. for the purpose of cutting timber* OR *on the private property of C.D.*) *so that the same was thereby injured* (OR *destroyed*), *contrary to section 515* (*a*) *of the Criminal Code.*

OR

did by negligence and without colour of right set fire to (DESCRIBE) *which occasioned the death of*   *, contrary to section 515* (*b*), *etc.*

WARRANT TO ARREST IS NECESSARY.

6. REFUSING TO OBEY FIRE MARSHAL or any Dominion, provincial or municipal fire officer to make reasonable changes to safeguard property from fire, after personal service of notice and after the expiry of thirty days.

Code, s. 515 (4). Indictable.

WARRANT TO ARREST IS NECESSARY.

ASSAULT

1. Definition.
2. Common assault.
3. Upon the King.
4. Indecent assault on Females.
5. On wife or other female with bodily harm.
6. Indecent assault on males.
7. With bodily harm.
8. Aggravated assault.
9. On officiating clergyman.
10. Bodily harm to servant.
11. Kidnapping.
12. Attempt to render unconscious to enable to commit an indictable offence.

1. Assault is applying force to another intentionally, or attempting by an act or gesture to apply such force (sec. 290). Striking at another with a cane although the object is not struck; drawing a sword, or throwing a bottle with intent to strike; presenting a loaded gun at a person (this is now a statutory offence, see "OFFENSIVE WEAPONS"); touching or laying hold of another's person or clothing; holding or pushing; a medical man unnecessarily stripping naked a female patient, are all assaults.

2. COMMON ASSAULT is an offence in which little or no damage or injury is done.

Code, s. 291. Indictable or summary conviction at Crown's option.

A.B., at , *on* , *did strike A.B. with his fist* (OR *as the case may be*) *and did thereby commit a common assault contrary to section 291 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

3. UPON THE KING, having near His Majesty any dangerous thing with intent to injure or alarm him, or doing any act which is an assault.

Code, s. 80. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

4. INDECENT ASSAULT ON FEMALES, or doing anything to a female by her consent which but for the consent would be an indecent assault if the consent is obtained by false representations.

Code, s. 292 (a) (b). Indictable.

A.B., at , *on* , *did indecently assault one C.D., a female* (OR *did* (STATE WHAT WAS DONE) *to C.D., a female, by her consent*) *such consent having been obtained by the false and fraudulent representation that he the said A.B. was a medical practitioner and that such act was necessary medical treatment of the said C.D.* (OR *as the case may be*) *contrary to section 292* (*a*) OR (*b*) *of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The consent of a female under fourteen is no defence (s. 294). If the evidence of a child of tender years is taken, without oath, it must be corroborated (sec. 1003). Evidence of a complaint made by the female is receivable to show consistency of conduct and to negative consent. A common assault might become an indecent assault by reason of indecent gestures and words.

5. OF WIFE OR OTHER FEMALE WITH BODILY HARM.

Code, sec. 292 (c). Indictable.

A.B., at , *on* , *did assault one C.D., his wife* (OR *a female*) *and did thereby occasion her actual bodily harm contrary to section 292* (*c*) *of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—It is submitted that "actual bodily harm" does not require the same degree of injury that is required in "grievous bodily harm," in which it has been held that "if it seriously interfere with health or comfort it is sufficient." It has been held that "actual bodily harm" does not imply a wounding or breaking of the skin.

6. INDECENT ASSAULT ON MALES, or assault on any person with intent to commit sodomy.

Code, s. 293. Indictable.

A.B., at   , on   , did assault one C.D. with intent to commit sodomy contrary to section 293 of the Criminal Code.

OR

A.B., a male at   , on   , did indecently assault one C.D., another male, contrary to section 293 of the Criminal Code.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The consent of a child under fourteen is no defence (s. 294), see "EVIDENCE UNDER HEADING 4."

7. ASSAULT WITH BODILY HARM.

Code, s. 295. Indictable.

A.B., at   , on   , did assault one C.D., thereby occasioning actual bodily harm contrary to section 295 of the Criminal Code.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—See heading 5. It has been held that a person attacked is not limited to warding off the blow, but may strike the aggressor if necessary for self-defence.

8. AGGRAVATED ASSAULT is assault with intent to commit an indictable offence; of a public or peace officer in execution of his duty; with intent to resist arrest; of a person distraining; within two miles of a poll on election day.

Code, s. 296. Indictable.

A.B., at   , on   , did assault C.D. with intent to commit the indictable offence of (FOLLOW THE FORM GIVEN HEREIN)

OR

did assault C.D., a public officer (OR *peace officer*) *of the   , engaged in the execution of his duty, to wit* (DESCRIBE)

OR

did assault C.D. with intent to resist (OR *prevent*) *the lawful apprehension* (OR *detainer*) *of the said A.B.* (OR *one E.F.*) *for the offence of* (FOLLOW FORM GIVEN HEREIN)

OR

did assault C.D., a duly appointed bailiff of   court then engaged in the lawful execution of a certain process issued to him the said C.D. out of the said court against the lands (OR *goods*) *of him the said A.B.* (OR *in making a lawful distress* (OR *seizure*) *against the goods of him the said A.B.* (OR *one C.*)

OR

did assault (OR *beat*) *one C.D. on   street, within two miles of a poll then being proceeded with for the election of* (NAME THE ELECTION) *contrary to section 296 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Definition of public officer and peace officer, sec. 2 (33) and (27). Public officer is an excise, customs, army or other revenue officer. Peace officer is a sheriff, justice, reeve, police officer, bailiff, prison guard, etc. Resisting officers, see sections 167, 168. The officer must be actually performing his duty at the time. The arrest must be one authorized by law.

9. ON CLERGYMAN, engaged in or about to engage in or returning from his duties, or arresting on civil process.

Code, s. 200. Indictable.

A.B., at   , on   , did strike (OR *offer violence to by* DESCRIBE THE VIOLENCE) *one C.D. a clergyman while he was engaged in* (OR *to the knowledge of the said A.B. was about to engage in*) *his rites or duties of celebrating divine service* (OR AS THE CASE MAY BE) *in the   church contrary to section 200 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Prove the striking or other violence; that C.D. is a clergyman and was engaged in his duties at the time or that accused had knowledge that he was about to engage in them or was returning therefrom. See "Religious meeting" for the offence of disturbing divine service.

10. BODILY HARM TO APPRENTICE OR SERVANT, by the master or mistress so that life is endangered or health likely to be permanently injured.

Code, s. 249. Indictable.

A.B., at , on , being then and there the master of C.D. an apprentice (OR *servant*) *and being legally liable to provide for the said C.D. unlawfully did bodily harm to the said C.D.* (*state what*) *whereby the life of the said C.D. was endangered* (OR *the health of the said C.D. was likely to be permanently injured*) *contrary to section 249 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

11. KIDNAPPING is causing anyone to be secretly confined, transported out of Canada, to be sold or captured as a slave against his will.

Code, s. 297. Indictable.

A.B., at , on , did [2] *kidnap one C.D. and did cause him to be* [1] *confined* (OR *imprisoned*) *in against the will of the said C.D. contrary to section 297(a) (i) of the Criminal Code.*

OR

[1] *unlawfully sent or transported out of Canada against his will to the United States of America* (OR AS THE CASE MAY BE) *contrary to section 297(a) (ii) etc.*

OR

[1] *sold* (OR *captured*) *as a slave by* (OR *held in the service of one E.F. against his will*) *contrary to section 297(a) (iii) etc.*

OR

[2] *forcibly seize and confine* (OR *imprison*) *one C.D. in Canada contrary to section 297(b) etc.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Non-resistance is not a defence unless it appears that it was not caused by threats or force, etc. All the prosecution must prove is the forcible imprisonment; it is for the defendant to prove that he was justified. There are two separate offences; the offence of kidnapping and the offence of seizure and imprisonment.

12. ATTEMPTING TO RENDER UNCONSCIOUS by choking, etc., or drugs to enable him to commit an indictable offence.

Code, s. 576. Indictable.

A.B., at , on , with intent to enable him (OR *one C.D.*) *to rob* (OR TO COMMIT RAPE OR AS THE CASE MAY BE) *E.F. did attempt to render the said E.F. unconscious or incapable of resistance by choking* (OR *gagging*, OR *administering chloroform*, OR MENTION THE MEANS) *the said E.F. contrary to section 276* (A OR B) *of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—Prove the attempt to commit the crime by the surrounding circumstances. It is not necessary to prove that the person was rendered unconscious; the attempt to do so is sufficient.

ATTEMPTS

The attempt to commit an indictable offence is punishable, secs. 570, 571, as is also the attempt to commit any other statutory offence, sec. 572, and both are indictable.

A.B., at , on , did unlawfully attempt to (SET OUT THE OFFENCE FROM THE FORM GIVEN HEREIN).

A WARRANT TO ARREST IS NECESSARY for attempting to commit offences unless covered by specific sections such as attempt to murder.

EVIDENCE.—Definition of an attempt, sec. 72 provides that every one who having an intent to commit an offence, does or omits an act for the purpose of accomplishing his object is guilty of attempting to commit the offence whether under the circumstances it was possible to commit the offence or not. Where the full offence is charged but only an attempt proved the accused may be convicted of the attempt, sec. 949. If the full offence is proved where only the attempt is charged the accused cannot be found guilty of the full offence without another trial, but may be convicted of the attempt, sec. 950.

AUTOMOBILE—Intoxicated or under influence of narcotics whilst driving.

INTOXICATED OR UNDER INFLUENCE OF NARCOTICS WHILST DRIVING a motor car or having control of, whether in motion or not.

Code, s. 285(4). Indictable or Summary Conviction at Crown's option.

A.B., , *on* , *did drive* (OR *have the care or control of*) *an automobile while intoxicated* (OR *under the influence of narcotics*) *contrary to section 285(4) of the Criminal Code.*

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—Have evidence of two or three persons to prove the defendant drunk, i.e., that he staggered, that he smelled of liquor, that his speech was "thick." If a doctor is available his evidence would be valuable. If accused demands it he should be allowed to call one at once.

AUTOMOBILE—Taking.

TAKING or causing to be taken from a garage, stable, stand or other building or place any automobile with intent to drive it or cause or permit it to be driven without the owner's consent.

Code, s. 285(3).

A.B., at , *on* , *did take* (OR *cause to be taken*) *an automobile, the property of C.D. from a garage* (OR *name the place*) *without the consent of the said C.D. contrary to section 285(3) of the Criminal Code.*

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—The evidence is much the same as in cases of theft. As a matter of fact a charge of theft would lie in most cases.—See "THEFT."

BACKING WARRANTS

See "ARRESTS."

BAIL SKIPPING

See "ESCAPES, 6."

BANK NOTES—Advertising in imitation of

See "ADVERTISING."

BAWDY HOUSE

See "DISORDERLY HOUSES, 1."

BEGGING

See "VAGRANCY."

BETTING HOUSES

See "DISORDERLY HOUSES, 3."

BIGAMY

See "MARRIAGE."

BINDING OVER

BINDING OVER to keep the peace. If threats are made against the person or property of any person he may be brought before a justice and may be required to give security that he will keep the peace.

Code, s. 748(2). Summary conviction.

A.B., at , on , did make threats to do personal injury to one C.D. (OR *to burn the house of C.D.*, OR AS THE CASE MAY BE) *contrary to section 748 of the Criminal Code, and the said E.F.* (THE COMPLAINANT) *is afraid that A.B. will carry out such threats.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The evidence is produced in same way as upon any other charge. The justice may in his discretion require the accused to enter into a bond to keep the peace, and if he cannot find sureties may commit him to gaol.

BIRDS—Cruelty to

Shooting at, liberated, see "ANIMALS, CRUELTY TO."

BIRTHS, MARRIAGES AND DEATHS

Destroying records and false entries, see "FORGERY, 8, 9 and 10."

BODILY HARM

See "EXPLOSIVES" and "ASSAULT."

BOOKS OF ACCOUNT, Falsifying, etc.

See "FRAUD."

BOOK-MAKING

See "GAMING, 5."

BOUNDARY POSTS

Wilfully pulls down, defaces, alters, etc., any mark placed to determine the boundary of any province, county, city, etc.

Code, s. 531. Indictable.

A.B., at , on , did wilfully without legal justification or excuse and without colour of right pull down (OR *deface* OR *alter* OR *remove*) *a mound* (OR *landmark* OR *post* OR *monument*) *lawfully erected, planted or placed to mark the boundary between the township of D. and E.* (OR AS THE CASE MAY BE) *contrary to section 531 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

2. Wilfully defacing, altering, etc., landmarks placed by a land surveyor to mark lot limits, etc.

Code, s. 532. Indictable.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Definition of "wilfully," see "ARSON" and sec. 509. The act must be done without legal justification or excuse and without colour of right, sec. 541.

BREACH OF CONTRACT

(a) knowing the probable consequences will be to endanger human life, or cause serious bodily injury or to expose valuable property to destruction or serious injury;

(b) knowing that probable consequences will be to deprive inhabitants of a place or part thereof with power, light, gas or water;

(c) knowing that probable consequences will prevent or delay passengers, freight or mails on the railway.

(d) by municipal corporation or company knowing that probable consequences will deprive inhabitants or part thereof with light, power, gas or water.

(e) by railway company knowing that probable consequences will be delay or prevent running of trains with passengers, freight or the mails.

Code, s. 499. Summary conviction or indictable at option of the Crown.

A.B., at , on , having made a contract for the *purpose of (set out) with C.D. did wilfully break the said contract knowing or having reasonable cause to believe that the probable consequence of such breach would endanger human life* (OR *cause serious bodily injury to C.D.* OR *expose (name property) to destruction* (OR *serious injury)) contrary to the Criminal Code, section 499 (the charges under the other clauses may follow the wording of the statute giving the names of the companies and of the town or place affected).*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The contract must be proved. The breach must be wilful. It is not material whether malice is conceived against the person or company with which the contract is made or otherwise.

BREACH OF THE PEACE

Any act which tends to disturb the quiet and tranquility of the realm or the ordinary peaceful state of the country is a breach of the peace: a riot, a disturbance, a fight or affray or an assault is each a breach of the peace.

BREACH OF TRUST

BY TRUSTEE.

A.B., at , on , being the trustee of certain property to wit (DESCRIBE) *for the use and benefit of C.D.* (OR *as the case may be) under The Last Will and Testament of E.F.* (OR *as the case may be) with intent to defraud and in violation of his trust did convert the said property to a use not authorized by the said trust, to wit (describe the use).*

Code, s. 390. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

The consent of the Attorney-General is necessary, (s. 596) therefore a warrant to arrest should be obtained.

If the conversion is to the use of the trustee himself it is theft. Trustee is defined in Code, s. 2(42).

2. BY PUBLIC OFFICER, in the discharge of the duties of his office by committing fraud or breach of trust affecting the public, whether it would have been criminal or not if committed against a private person.

Code, s. 160. Indictable.

EVIDENCE.—"Public officer" is defined in sec. 2(33).

BRIBERY AND CORRUPTION

1. Judicial officer.
2. Peace officer, etc.
3. A government officer.
4. Jurors or witnesses.
5. Municipal corruption.
6. Selling or purchasing office.
7. Reward for negotiating for office.
8. Secret commissions.

1. JUDICIAL OFFICER OR MEMBER OF PARLIAMENT, accepting or agreeing or attempting to obtain for himself or any person else any valuable consideration or office on account of anything to be done in his official capacity; or giving such a bribe.

Code, s. 156. Indictable.

WARRANT TO ARREST IS NECESSARY.

If the accused holds judicial office the consent of the Attorney-General of Canada is required to prosecute (sec. 593).

2. OFFICER CONNECTED WITH ADMINISTRATION OF JUSTICE, police commissioner, justice, peace or public officer accepting gifts with intent to corruptly interfere with administration of justice; or giving such a bribe.

Code, s. 157. Indictable.

WARRANT TO ARREST IS NECESSARY.

If the accused holds judicial office the consent of the Attorney-General of Canada is required to prosecute (sec. 593).

A.B., at , on , then being a peace officer, to wit; a constable of (OR AS THE CASE MAY BE) *employed for the prosecution or detention of offenders did corruptly accept* (OR *obtain* OR *agree to accept* OR *agree to obtain) for himself* (OR *one C.D.) a sum of money to wit* (OR *a valuable consideration* OR *an office* OR *place of employment* STATING) *with intent to interfere corruptly with the due administration of justice* (OR *to procure* OR *facilitate the commission of a crime* STATING) (OR *to protect from detection and punishment one E.F. a person who had committed* OR *intended to commit the crime of* STATING) *contrary to section 157(a) of the Criminal Code.*

EVIDENCE.—It appears to be necessary to prove that the accused knew that the person offered to be bribed was a peace officer, where the charge is attempting to bribe a constable. It would appear to follow that the accused must be proved to have known that the person to whom the bribe is offered is the holder of that office. Prove that the one accepting the bribe is a peace officer (or other official named in the section); that the money or other consideration was given or that he agreed to accept it; prove what was done in consideration of the payment or offer.

3. OF EMPLOYEE OF GOVERNMENT, by means of any loan, gift, etc., to obtain contract, to furnish any goods; or being an official accepting or agreeing to accept such gift; or inducing any person by means of gifts, etc., to withdraw competitive tender, or accepting such gift; being an official accepts gifts to favour any person in transaction of business; accepting gifts for settling claims with the government; having dealings with the government pays to any official a reward, or being an official accepts, etc.; or any contractor having a contract with the government subscribing to election fund.

Code, s. 158. Indictable.

WARRANT TO ARREST IS NECESSARY.

Limitation is 2 years.

4. JUROR OR WITNESS or by threats dissuading witness from giving evidence or being a juror or witness accepts a bribe or attempting in any way to defeat the course of justice.

Code, s. 180. Indictable.

A.B., at , *on* , *did dissuade* (*or attempt to dissuade*) *one C.D. by threats* (DESCRIBE) OR *bribe* (STATING IT) OR *by corrupt means, to wit,* (*describe means*) *from giving evidence in a civil* (OR *criminal*) *case pending in* *court between* (STYLE OF CAUSE)

OR

did influence (OR *attempt to influence*) *by threats* (OR DESCRIBE AS IN ABOVE FORM) *C.D., a juryman summoned to serve at* (DESCRIBE THE COURT) *to be held at* , *in his conduct as such juryman,*

OR

did accept a bribe, to wit (DESCRIBE IT) *to abstain from giving evidence in certain case pending in* (COURT) OR *on account of his conduct as a juryman at* (COURT),

OR

did wilfully attempt to obstruct (OR *pervert* OR *defeat*) *the course of justice by* (*stating corrupt means and purpose*) AND, *contrary to the Criminal Code, section 180* (*clause*).

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Corrupting a juror is embracery at common law, and thus part of the law of Canada apart from the above section. A newspaper editor has been convicted of perverting the course of justice by publishing before trial articles concerning the accused which were inadmissible as evidence.

It is an offence under the above section to attempt to dissuade a witness by bribery to give in lieu of witness's own belief a version which the person making the offer believes to be true.

5. MUNICIPAL COUNCILLOR, corruptly giving or accepting gifts to do or abstain from doing anything.

Code, s. 161. Indictable.

WARRANT TO ARREST IS NECESSARY.

Limitation is 2 years.

6. SELLING OR PURCHASING OFFICE in the gift of the Crown.

Code, s. 162. Indictable.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—"Office" is defined in sec. 155.

7. RECEIVES OR GIVES A REWARD FOR CORRUPT MUNICIPAL ACT, that is receiving or giving reward for any interest or negotiation about any office; or solicits any appointment; or who keeps any office for negotiating any business relating to vacancies in offices.

Code, s. 163. Indictable.

WARRANT TO ARREST IS NECESSARY.

8. SECRET COMMISSIONS. Any person employed by another or the Crown or a municipal or other corporation who accepts or obtains any gift or reward for doing or forebearing to do any thing relative to his principal's business or for showing favour or disfavour; or any person giving or agreeing to give to such agent any reward for above purpose; or gives to any agent or being an agent uses any false statement intended to mislead his principal.

Code, s. 504. Indictable or summary conviction at option of Crown.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The above does not apply to persons liable to prosecution under s. 412(2). The offence consists in the giving and taking of reward by any person acting for another in the purchase of goods and in other ways. The taking of such reward influencing the agent in the purchase of goods to the detriment of his principal. It is not necessary to prove fraud, the giving or accepting is sufficient.

BUCKET SHOP

See "GAMING, 1."

BUGGERY AND ATTEMPTED BUGGERY

BUGGERY AND ATTEMPTED BUGGERY with a human being or with any other living creature.

Code, s. 202 and 203. Indictable.

A.B., at , on , did commit (OR *attempt to commit,* SECTION *203) the abominable crime of buggery with C.D.* (OR *with a living animal, to wit, a mare) contrary to section 202 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED FOR THE OFFENCE BUT IS FOR THE ATTEMPT.

EVIDENCE.—The offence consists of penetration *per anum* in human beings or against the laws of nature with an animal. The term "buggery" is used as an equivalent of "sodomy." The offence is complete upon the slightest penetration and even without the emission of seed (sec. 7). The offence may be committed by man upon another male or upon a female; upon a man's own wife, or by a man or woman with any animal. The consenting passive party is also guilty of the offence, unless he is under fourteen years of age. Medical evidence will assist in proving penetration.

BURGLARY AND HOUSEBREAKING

1. Place of worship.
2. Dwelling-house by night.
3. Dwelling-house by day.
4. Shop-breaking, etc.
5. Found in dwelling-house by night.
6. Found armed with intent.
7. Having house-breaking instruments.

1. BREAKING and entering place of worship and committing any indictable offence, or with intent to commit any indictable offence.

Code, ss. 455-6. Indictable.

A.B., at , on , [1] *did break and enter the church and did commit therein the crime of theft by stealing ,* (OR *with intent to commit an indictable offence therein, to wit,) contrary to section 455* (OR *456) of the Criminal Code.*

OR

[1] *Having committed the indictable offence of theft in church did break out of the said church contrary to section 455, etc.*

WARRANT TO ARREST IS NOT REQUIRED.

2. BY NIGHT breaking and entering a dwelling-house with intent to commit an indictable offence, or breaking out of a dwelling-house after having committed an indictable offence or after having entered with intent so to do.

Code, s. 457. Indictable.

A.B., at , on , by night did break and enter the dwelling-house of C.D. with intent to commit an indictable offence therein, to wit, the crime of theft (OR *by night did break out of the dwelling-house of C.D. after having* [1] *committed therein the indictable offence of theft* (OR AS THE CASE MAY BE) OR [1] *unlawfully entered the said dwelling-house with intent to commit therein the indictable offence of theft*). (IF THE ACCUSED WAS ARMED ADD *the said A.B. being then and there armed with an offensive weapon, to wit, a pistol*) *contrary to section 457 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

3. BY DAY breaking and entering a dwelling-house and committing any indictable offence or break out after having committed, (s. 458) or breaks and enters with intent to commit (s. 459).

Code, ss. 458-9. Indictable.

A.B., at , on , by day did break and enter the dwelling-house of C.D. and did commit therein the indictable offence of theft (OR AS THE CASE MAY BE) (OR *by day did break out of the dwelling-house of C.D. after having committed therein the indictable offence of theft*) *contrary to section 458 (clause) of the Criminal Code.*

OR

by day did break and enter the dwelling-house of C.D. with intent to commit therein the indictable offence of theft, contrary to section 459 of the Criminal Code.

WARRANT TO ARREST IS NOT REQUIRED.

4. SHOP-BREAKING. By day or night, breaking and entering and committing an indictable offence in a hospital, institution, school, shop, warehouse, office, theatre, factory, freight car or coach, or any building within the curtilage of a dwelling-house, or any pen or cage where fur-bearing animals are kept; or with intent to commit an indictable offence.

Code, ss. 460-1. Indictable.

A.B., at , on , did break and enter the shop of C.D. (OR NAME THE BUILDING AS SET OUT IN THE SECTION) [1] *and did commit therein the indictable offence of theft, contrary to section 460 of the Criminal Code.*

OR

[1] *with intent to commit therein the indictable offence of theft, contrary to section 461, etc.*

WARRANT TO ARREST IS NOT REQUIRED.

5. BY NIGHT unlawfully enters or is found in any dwelling-house with intent to commit an indictable offence.

Code, s. 462. Indictable.

A.B., at , on , by night did unlawfully enter (OR *was unlawfully in*) *the dwelling-house of C.D. with intent to commit therein the indictable offence of theft* (OR AS THE CASE MAY BE) *contrary to section 462 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

6. FOUND ARMED by day with intent to break and enter a dwelling-house and commit an indictable offence or by night with intent to break and enter any building and commit an indictable offence.

Code, s. 463. Indictable.

A.B., at , on , was found by day armed with a dangerous or offensive weapon (OR *instrument*) *to wit* (DESCRIBE IT) *with intent to break and enter the dwelling-house of C.D.*

and commit therein an indictable offence contrary to section 463(a) of the Criminal Code, (OR IF BY NIGHT) *substitute "by night armed with a dangerous or offensive weapon* (OR *instrument) to wit* (DESCRIBE) *with intent to break and enter the shop of C.D.* (OR ANY OTHER BUILDING DESCRIBING IT) *etc., contrary to section 463(b), etc.*

WARRANT TO ARREST IS NOT REQUIRED.

7. Having house-breaking instruments in his possession by night, or having them by day with intent to commit an indictable offence; or being disguised by night, or by day with intent as above.

Code, s. 464. Indictable.

A.B., at , on , was found by night unlawfully and without lawful excuse in possession of an instrument of house-breaking, to wit (DESCRIBE IT) *contrary to section 464(a) of the Criminal Code.*

OR

was found by day unlawfully having in his possession an instrument of house-breaking, to wit (describe it) with intent to commit an indictable offence, to wit (theft from a dwelling-house OR AS THE CASE MAY BE) *contrary to section 464(b), etc.*

OR

was found by night unlawfully and without lawful excuse with his face masked (OR *blackened* OR *disguised by* STATE MANNER OF DISGUISE) *contrary to section 464(c), etc.*

OR

was found by day unlawfully having his face masked (OR AS ABOVE) *with intent to commit an indictable offence, to wit (assault upon C.D.* OR AS THE CASE MAY BE) *contrary to section 464(d), etc.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—"Night" means from 9 p.m. until 6 a.m., and "day" from 6 a.m. to 9 p.m., sec. 2(24). "Breaking" means any breaking, forcing a door or window, opening with a false key, taking out a pane or drawing nails, raising a window which is closed; if a servant conspire and unlocks a door for a thief; and see sec. 335(d). "Entering" means even the least entry with any part of the prisoner's body or by any instrument used by him, and see sec. 340. "Dwelling-house" means every house for the habitation of man and means a permanent building the whole or part of which is kept for residence of himself or servants although at intervals unoccupied, sec. 335(g) and includes a building within the curtilage of a dwelling-house if there is either immediate or covered and inclosed passage leading from one to the other, sec. 339. "Curtilage" means a court, a yard, a garden or field surrounding or near and belonging to a dwelling-house. The intent, where it is part of the offence, must be proved to be an intent to commit an indictable offence, and not merely a trespass, such as for the purpose of finding shelter. Facts may be given in evidence from which the intent may be presumed such as the nature of weapons carried, the best evidence of intent is that the accused actually committed the indictable offence named in the information: it is noted that it is not expressly declared to be an offence under No. 2 to break and enter a dwelling-house by night *and commit* an indictable offence, it says *with intent* to commit. Under No. 7 the onus is on the accused to prove innocent intent if he is found by night with house-breaking instruments or disguised.

CATTLE

Attempting to kill, maim, wound, poison or injure cattle; or placing poison where it may be taken.

Code, s. 536. Indictable.

A.B., at , on , did wilfully attempt to kill (OR *maim* OR *wound* OR *poison* OR *injure) certain cattle* (OR *the young of certain cattle) to wit* (STATE WHAT) *the property of C.D., contrary to section 536(a) of the Criminal Code.*

OR

did wilfully place poison in such a position as to be easily taken by certain cattle, the property of C.D., by placing it in salt in a field where the said cattle were (OR AS THE CASE MAY BE) *contrary to section 536(b) of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—Cattle defined, sec. 2(5). Damage or poisoning cattle, see "MISCHIEF." Wilfully means causing an event by an act which he knew would probably cause it and being reckless whether the event happens or not, sec. 509. It must be done without colour of right, sec. 541. This section deals with the attempt, if damage is actually done, see sec. 510(b) (ii) "MISCHIEF." See also "ANIMALS."

CARNAL KNOWLEDGE

1. Rape.
2. Of an idiot.
3. Of girl under 14.
4. Of girl between 14 and 16.

Of girl between 16 and 18, see "SEDUCTION."

1. RAPE AND ATTEMPTED RAPE. Carnal knowledge of a woman, not his wife, without her consent; or with consent which is obtained by threats or fear of bodily harm, or by personating the woman's husband, or by false representations as to the nature and quality of the act.

Code, s. 299 and 300. Indictable.

A.B., at , on , did have carnal knowledge of C.D., a woman who was not his wife, without her consent (OR *with her consent unlawfully extorted by threats* (OR *fear of bodily harm*) OR *which consent was obtained by the said A.B. personating the husband of the said C.D.*, OR *by false and fraudulent representations as to the nature and quality of the act, to wit* (SET OUT) *and did thereby commit rape, contrary to section 299 of the Criminal Code.*

OR

A.B., at , on , did attempt to have carnal knowledge of C.D., a woman who was not his wife, without her consent (OR WITH HER CONSENT FOLLOWING THE ABOVE FORM) *contrary to section 300 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—It is necessary to show that the prosecutrix complained of the assault at the first opportunity. Corroboration, although not necessary is desirable. If the prisoner make the girl drunk and then has connection with her it is rape; or if he has connection when she is asleep. A boy under fourteen cannot commit the offence (sec. 298(2)). A husband or a boy under fourteen or a woman can be convicted of rape for assisting some other person to commit the offence (sec. 69). The slightest penetration is sufficient (sec. 7). Woman as used in the section means female and does not only mean mature woman. If the girl is under fourteen years the charge is rape if the act was without her consent. The underclothing of the woman should be examined for tears consistent with a struggle. An analysis may be made of stains for semen, although the emission of seed need not be proved. The woman should be examined by a doctor for bruises on the body and genitals. The accused may be suffering from venereal disease which will be disclosed in the semen stain.

2. OF AN IDIOT. Carnal knowledge or attempted carnal knowledge of a female idiot, imbecile, insane, deaf and dumb or feeble-minded person where the accused had good reason to believe that the woman was such.

Code, s. 219. Indictable.

A.B., at , on , did carnally know (OR *attempt to have carnal knowledge of*) *one C.D., a female, not his wife, knowing* (OR *having good reason to believe*) *that the said C.D. was an idiot* (OR AS THE CASE MAY BE) *contrary to section 219 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Corroboration is required (sec. 1002). Feeble-minded defined (sec. 2(15)). An idiot, etc., is deemed to be incapable of consenting, it is therefore immaterial whether she consents or not.

3. OF A GIRL UNDER FOURTEEN YEARS, not being his wife, whether he believes her to be above that age or not.

Code, s. 301(1). Indictable.

The attempt, s. 302. Indictable.

A.B., at , on , did carnally know C.D., a female under the age of fourteen years who was not his wife, contrary to section 301(1) of the Criminal Code.

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—Corroboration is necessary (sec. 1002). The evidence is the same as in rape except that consent is immaterial. A charge of rape will lie where the offence was committed without consent of a child under fourteen. For proof of age (sec. 984). Previous chastity is not essential.

4. OF A GIRL BETWEEN 14 AND 16, of previously chaste character, not his wife.

Code, s. 301(2). Indictable.

Information as under No. 3 insert "a female of previously chaste character under the age of sixteen years and above the age of fourteen years not being his wife."

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—Corroboration is necessary. See evidence above. See also "SEDUCTION" and "PROCURING."

CHASTE CHARACTER

This expression does not of necessity mean an intact hymen, although previous chaste character is usually proved by a medical examination disclosing a recently ruptured hymen or bruises on the genitals. Chaste character does not mean chaste reputation. A girl who had submitted some time previously to

illicit intercourse but who had since then rehabilitated herself in character could be said to be of chaste character, so of course any married woman might be of chaste character.

CHEATING

CHEATING in playing any game or in holding stakes or in betting on any event; or (b) plays or offers to play in any public place the game of "three-card monte" or any similar game for money or prize or who receives bets on such a game.

Code, s. 442. Indictable.

A.B., at , on , with intent to defraud C.D., did cheat in playing game with cards (OR AS THE CASE MAY BE) (OR *in holding the stakes* OR *in betting on the outcome of* DESCRIBE) *contrary to section 442(a) of the Criminal Code.*

OR

A.B., at , on , did carry on (OR *play* OR *employ one E.F. to carry on or play*) *the game known as "three-card monte"* (OR *"the shell-game"*) *at park, a public place* (OR AS THE CASE MAY BE) for money (OR *did receive bets on the outcome of a game known as, etc.*), *contrary to section 442(b) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—In the case of cheating if two or more persons are involved and there is doubt whether it comes under this section, consider the charge of "conspiracy to defraud." Three-card monte is a game of sleight of hand: the card sharp shows the cards and then places them on the table after moving them rapidly with his hands he invites any person to bet on his ability to pick out the King. A similar game is "the shell-game." A pea is placed on the table with a thimble or half walnut shell over it, two other shells are placed beside it and the pea rolled about. You are asked to bet on your ability to pick the shell under which the pea is hidden. You are always wrong because the pea is wax and is picked up on the finger-nail of the sharp. One of the nails is usually long for that purpose.

CHICKENS

Killing, poisoning, see "ANIMALS."

CHILD BIRTH

Neglect and concealment, see "HOMICIDE, 6 and 7."

CHILDREN—Abandoning

CHILDREN — ABANDONING or exposing any child under two years of age endangering life or permanently injuring its health.

Code, s. 245. Indictable.

A.B., at , on , did unlawfully abandon (OR *expose*) *her child being then under the age of two years whereby its life was endangered* (OR *its health was permanently injured*) *contrary to section 245 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Prove that child was abandoned or exposed; that it is under two years of age, and that it's life was endangered or health permanently injured. If death ensues murder or manslaughter should be charged. Presumption of age, section 984.

CHILDREN—Corrupting

In the home of a child under 16 years by sexual immorality, habitual drunkenness or any other vice, causes such child to be in danger of becoming immoral or criminal or makes the home unfit for the child.

Code, s. 215(2). Summary conviction.

A.B., at , on , by indulging in sexual immorality (OR *habitual drunkenness* OR *name the vice*) *in the home of C.D. a child under 16 years of age has rendered such home an unfit place for said C.D. contrary to section 215(2) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

Consent of Attorney-General or some recognized society for protection of children or an officer of a juvenile court must be obtained before prosecution is instituted.

EVIDENCE.—It is not a defence that the child is too young to understand or to be affected by the conduct. The section should not be used merely to prosecute persons for living in adultery. Conditions should exist which might affect the morals of the child as mentioned in the section.

CHILDREN—Failure to provide for

See "NON-SUPPORT."

CLERGYMAN—Obstructing

CLERGYMAN—OBSTRUCTING by threats or force or preventing or endeavoring to obstruct or prevent a clergyman officiating at divine worship or at a burial service.

Code, s. 199. Indictable.

A.B., at , on , did by means of threats (OR *force*) *unlawfully obstruct* (OR *prevent* OR *endeavor to obstruct* OR *prevent*) *one C.D. a clergyman in celebrating divine service in the church* (OR AS THE CASE MAY BE) *contrary to section 199 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

Violence to officiating clergyman,—see "ASSAULT."

COCK-PIT

COCK-PIT—builds, makes, maintains or keeps a cock-pit on premises belonging to or occupied by him, or allows it.

Code, s. 543. Summary conviction.

A.B., at , on , did keep (OR *allow to be kept*) *a cock-pit on premises occupied by him at* (*where*).

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—The contest is usually allowed to begin so that the evidence is complete. The spurs on the birds are usually sharpened or covered with metal spikes. These should be produced. The birds are sold for the benefit of the municipality after conviction. Limitation is 3 months.

Assisting at a cock-fight is an offence under s. 542(d). A spectator may be prosecuted under this section.

COINAGE OFFENCES

See "COUNTERFEITING."

COMBINES

See "CONSPIRACY IN RESTRAINT OF TRADE."

COMMISSIONS

COMMISSIONS received by agent to influence him. See "SECRET COMMISSIONS."

COMMON LAW

Most common law offences have lost their significance in Canadian law. They are offences which do not depend upon any statute but upon custom and cases decided years ago. The common law is still in force in Canada except as altered or repealed by the Parliament of the United Kingdom having force of law in Canada or by the Dominion Parliament. If an act or omission is an offence at common law and also against the Criminal Code it may be prosecuted either under the Code or at common law. (Code, s. 10-15.)

COMPLAINT

A complaint, or information, is an allegation before a justice or magistrate that a certain person has committed an offence. In summary conviction cases the complaint need not be sworn unless a warrant to arrest is requested. Although the criminal code does not specifically so state a sworn complaint is necessary before a warrant to arrest is issued. Certain statutes require that the complaint should be sworn whether a summons or warrant is issued, although the offences are punishable on summary conviction. In indictable offences the complaint must be sworn: in fact in practise it is usual to swear to all complaints. The complainant must appear in person before the justice.

A complaint or information must be for one offence only. If two offences are charged in an information it is bad. The charge of "receiving stolen goods and retaining them" is bad for duplicity although the two offences are covered by one section of the Code. Great care should be taken in drawing informations that this does not occur, but on the other hand it should not be carried too far the other way. Killing several hares on the same day is one offence, so is exercising trade on Sunday although several sales have taken place; or stealing "in or from" a building.

Two or more persons may be accused jointly in the one complaint.

A complaint for a warrant may be laid on Sunday (Code, s. 661(3)).

Under the Excise Act the informant must be an Inland Revenue Officer or must hold a writ authorizing him to commence proceedings. Prosecutions under the Inland War Tax Act must be instituted by a special officer of the department. Generally, however, any person may lay a complaint charging an offence. The officer should have reasonable and probable cause to suspect that an offence has been committed and that the accused is guilty before he lays a complaint. He protects himself by consulting the Crown Attorney. See MALICIOUS PROSECUTION.

COMPOUNDING OFFENCES

1. Compounding a penal action by taking a reward in consideration of not proceeding with a charge which is not punishable by indictment or on summary conviction but is one in which the prosecutor is entitled to recover a penalty from the accused.

Code, s. 181. Indictable.

A.B., at , on , having theretofore brought (OR *under colour of bringing) an action in the Court against C.D., in order to obtain from him a penalty under a penal statute, to wit* (NAME STATUTE) *did unlawfully compound the said action without the order or consent of the court contrary to section 181 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

2. TAKING REWARDS WITHOUT BRINGING OFFENDER TO JUSTICE, under pretence of helping to recover property obtained by an indictable offence.

Code, s. 182. Indictable.

A.B., at , on , did corruptly take from C.D. a sum of money to wit $ (OR *a certain reward* STATING WHAT) *for and under the pretence* (OR *on account*) *of helping the said C.D. to recover certain stolen property* (STATING WHAT) *belonging to C.D., he the said A.B. not having used all due diligence to cause the offender to be brought to trial for the said offence of stealing* (OR AS THE CASE MAY BE) *the said property contrary to section 182 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

3. COMPOUNDING A FELONY. This is a Common Law offence and consists in taking a reward for not prosecuting a felony. There is no section in the Code covering the offence except as above, but it may be prosecuted as a Common Law offence. See heading "FELONY."

Common Law. Indictable.

A.B., at , on , did receive from C.D. the sum of $100 as a reward for desisting from prosecuting the said C.D. for stealing a horse of the said A.B. contrary to law in such cases made and provided.

This offence is a misdemeanor at Common Law punishable by fine and (OR) *imprisonment with or without hard labour.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Prove the felony to have been committed by C.D. and prove that A.B. received the reward from C.D. on an understanding not to prosecute; it has been held that he need not be the owner of the stolen property nor a material witness for the prosecution.

CONCEALING THINGS

See THEFT.

CONCEALMENT OF BIRTH

See HOMICIDE, 7.

CONCEPTION

Selling means to prevent. See OBSCENE BOOKS AND PICTURES.

CONDUCT MONEY

A witness in a criminal case cannot refuse to attend Court because his expenses have not been paid, or because he has not been given Conduct money. It has been held that in a prosecution under a provincial statute where a per diem fee is prescribed, that a witness cannot be arrested unless his witness fees were prepaid or tendered to him. Such provincial statute may state however that a witness is not excused from attending because his fees are not prepaid.

CONSPIRACY TO COMMIT INDICTABLE OFFENCE

Not specially provided for.

Code, s. 573. Indictable.

A.B. and C.D., at , on , did conspire with each other and with other persons unknown to commit an indictable offence, to wit: to violate the provisions of section of the Criminal Code, contrary to section 573 of the Criminal Code.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—See CONSPIRACY TO DEFRAUD, the information need not set out in detail the fraudulent means, if fraud is the gist of the offence, s. 863.

CONSPIRACY TO DEFRAUD

CONSPIRACY TO DEFRAUD, by deceit or falsehood or other fraudulent means, the public or any person, or to affect the market price of stocks, whether the act would amount to false pretences or not.

Code, s. 444. Indictable.

A.B., C.D., and E.F., in the years in the county of conspired together, and with one another, and with other persons unknown, by deceit, falsehood and other fraudulent means to defraud (a named person OR *group* OR *class of persons as case may be)* OR *to affect the public market price of the stock of (name the company issuing the stock) contrary to section 444 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Although the purpose of the conspiracy may be lawful, to agree to achieve it by deceit or other unlawful means is criminal. The actual agreement to do the act, not mere discussion about it, constitutes the crime. Evidence of the agreement is seldom available unless a co-conspirator gives evidence, otherwise it must be deduced from all the surrounding facts and documents, especially from so-called overt acts, or things done by any of the alleged conspirators in trying to carry out the object of their agreement. The deceitful acts need not amount to false pretences.

Jurisdiction to try a charge of conspiracy lies in the county or district where the agreement was entered into and also where any overt act, pursuant to the conspiracy, took place.

Two or more persons may conspire, but a charge may be laid against one of them only, particularly where the others are not available, or are used as witnesses.

CONSPIRACY IN RESTRAINT OF TRADE

Combining or conspiring with any other person (a) unduly to limit the transportation, production, manufacture, supplying, etc., of any article or commodity the subject of trade or commerce; (b) to restrain or injure trade in relation to such goods; (c) unduly to prevent, limit or lessen the manufacture or to enhance unreasonably the price thereof; (d) to prevent or lessen unduly competition in the manufacture, purchase, sale or supply or transportation or in the price of insurance upon person or property.

Code, s. 498. Indictable.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—By subsection 2 it is provided that the above does not apply to combinations of workmen or employees for their own reasonable protection, nor to trade unions as such, section 497. Under The Combines Investigations Act a commissioner is appointed with power to investigate alleged combines and to take evidence, if after investigation he is of opinion that a combine exists the evidence is transmitted to the Attorney-General of the province for action. Definition of trade combinations, s. 2(41).

CONSPIRACY TO DEFILE

See PROCURING, 4.

CONSPIRACY TO INTIMIDATE LEGISLATURE

By combining with any other person to do any act of violence to intimidate or restrain.

Code, s. 79. Indictable.

CONSPIRACY TO CAUSE EXPLOSION

See Explosives.

CONSPIRACY TO MURDER

See Homicide, 3.

CONSTABLE—Impersonation of

See Impersonation.

COPYRIGHT

Performing copyright work without written consent of owner or his legal representative; or changing title of the name of author of copyright in order that same may be performed for private profit.

Code, s. 506. Summary conviction.

WARRANT TO ARREST IS NECESSARY.

It is submitted that a police officer should not initiate any proceedings in these cases.

CORONERS

Coroners are appointed to hold inquests on the bodies of persons who have died under suspicious circumstances. They have no power to commit for trial in Canada although in England coroners have that power. See Inquests.

CORONER'S JURY

See Inquests and Jury.

CORPORATIONS

Corporations may be guilty of criminal offences. It is patent that a corporation cannot be arrested, therefore the procedure is by way of summons.

Service of a summons on a corporation is made by leaving it with the mayor or chief officer or upon the clerk or secretary or like officer (Code, s. 720(2) and s. 782). The first section deals with summary conviction cases, the second with indictable. The procedure however is the same. If the corporation does not appear by its attorney as required by statute the Court may proceed in the absence of such representative (Code, ss. 720(3), 919 and 920.

After conviction a corporation may be fined in the discretion of the Court. It is obvious that a corporation cannot be imprisoned.

CORRESPONDENCE

Police officers should correspond with government departments through the head of the force. Much trouble and confusion is saved by so doing. This also applies to communications with other police forces except under exceptional circumstances where speed is essential. Departments of the Government will not act on correspondence from all ranks.

COUNTERFEITING

1. Government public seals.
2. Court, Registry Office, burial seals.
3. Proclamations or official orders.
4. Dominion or Provincial stamps.
5. Possession of bank notes.
6. Making gold or silver coins or gilding.
7. Trading in gold or silver coins.
8. Making copper coins.
9. Exporting coins.
10. Possession of equipment.
11. Taking out of Mint.
12. Clipping gold or silver coins.
13. Defacing coins.
14. Possession of filings.
15. Possession of coins to utter.
16. Making copper coins or tools.
17. Foreign coins.
18. Uttering gold or silver coins.
19. Uttering lightened gold or silver coins.
20. Uttering defaced coins.
21. Uttering uncurrent copper coins.
22. Advertising counterfeit money.
23. Evidence.

1. GOVERNMENT SEALS, makes or counterfeits any public seal of the United Kingdom, or of Canada or any part thereof or of any colony or uses such seal knowing it to be counterfeit.

Code, s. 472. Indictable.

A.B., at , on , did unlawfully make (OR *counterfeit*) *a seal of the Secretary of State for Canada* (OR AS THE CASE MAY BE) *contrary to section 472 of the Criminal Code,*

OR

(*did unlawfully use a seal purporting to be the seal of the Secretary of State for Canada knowing the same to be counterfeit*).

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—This section deals with the Privy Seal or Seals of departments.

2. COURT SEALS, REGISTRY OFFICE OR BURIAL BOARD SEALS.

Code, s. 473. Indictable.

Information as above.

WARRANT TO ARREST IS NECESSARY.

3. PROCLAMATIONS OR OFFICIAL ORDERS, purported to have been printed by the King's Printer for Canada or one of the provinces.

Code, s. 474. Indictable.

WARRANT TO ARREST IS NECESSARY.

4. STAMPS used for revenue by the Government of the United Kingdom, or Canada or one of the provinces or a colony; having in possession or utters; having a die for making; removing stamps from material for use; or make any mark or brand used by any Government as above or any department or affixes to goods.

Code, s. 479. Indictable.

A.B., at , on , did fraudulently counterfeit (OR *knowingly sell;* OR *expose for sale,* OR *utter*) *a stamp used for the purpose of revenue by the Government of to wit, a stamp* (DESCRIBE THE STAMP AND ITS USE) *contrary to section 479* (SUBSECTION) *of the Criminal Code.* (INSERT ONE OF THE CHARGES IN SECTION *479* IN THE WORDS OF THE SECTION.)

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—Produce the forged or counterfeit stamps in evidence, prove them to be forged, by an officer having knowledge. Seals of a Government Liquor Board would come under clause (i). Where knowledge on the part of the accused is essential it may be inferred from circumstances, it is almost impossible to prove knowledge in any other way.

5. BANK NOTE, having in possession or purchasing from any person knowing it to be forged.

Code, s. 550. Indictable.

A.B., at , on , did without lawful authority or excuse purchase (OR *receive*) *from one C.D.* (OR *have in his custody or possession*) *a forged bank note* (OR *forged blank bank note*) *to wit* (DESCRIBE) *knowing it to be forged, contrary to section 550 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—"Counterfeit" means false, section 546(a), see evidence under No. 4.

6. MAKING GOLD OR SILVER COIN OR GILDING, making coin resembling current gold or silver coin; or gilds any coin to resemble gold or silver coin.

Code, s. 552. Indictable.

A.B., at   , on   , did unlawfully make (OR *begin to make*) *a counterfeit coin resembling* (OR *apparently intended to resemble or pass for a current gold* (OR *silver*) *coin, to wit, a five dollar gold piece contrary to section 552(a) of the Criminal Code,*

OR

did unlawfully gild or silver coin resembling (OR *apparently intended to resemble or pass for*) *a current gold* (OR *silver*) *coin contrary to section 552(b), etc.,*

OR

did unlawfully gild (OR *silver*) *a piece of silver* (OR PIECE OF METAL DESCRIBING IT) *being of a fit size and figure to be coined with intent that the same shall be coined into counterfeit coin resembling* (OR *apparently intended to resemble or pass for*) *a current gold* (OR *silver*) *coin, to wit a five dollar gold piece contrary to section 552(c), etc.*

Follow the above form and words of clause for other offence.

WARRANT TO ARREST IS NECESSARY.

7. TRADING IN GOLD OR SILVER COIN OR IMPORTING.

Code, s. 553. Indictable.

A.B., at   , on   , did buy (OR *sell* OR *receive* OR *put off* OR *offer to buy,* OR *sell, etc.*) *at a lower rate of value than the said coin imports* (OR *was intended to import*) *a certain counterfeit coin resembling* (OR *apparently intended to resemble* OR *pass for*) *a five dollar gold piece contrary to section 553(a) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

8. MAKING COPPER COINS, or importing copper coin other than current coin for purpose of putting into circulation.

Code, s. 554. Summary conviction.

A.B., on   , at   , did manufacture (OR *import into Canada*) *copper coins with the intention of putting the same into circulation contrary to section 554 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

9. EXPORTING COIN, or putting on board any means of transport for the purpose of exporting any counterfeit current coin, or of any foreign state, knowing the same to be counterfeit.

Code, s. 555. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

10. POSSESSION OF PRESS OR EQUIPMENT, or making or mending any puncheon, matrix, stamp, die, etc., for current gold or silver coin or foreign coin.

Code, s. 556. Indictable.

A.B., at   , on   , did without lawful authority or excuse make (OR *mend* OR *begin to make* OR *mend* OR *buy* OR *sell* OR *have in his custody* OR *possession*) *one puncheon* (OR DESCRIBE THE INSTRUMENT) *in* OR *upon which there was then made and impressed* (OR *which was adapted and intended to make and impress*) *the figure* OR *stamp* OR *apparent resemblance of one of the sides of a current gold* (OR *silver*) *coin, to wit* (*describe the coin*) *contrary to section 556(a) of the Criminal Code.*

Change the form to suit other charges in words of the clauses.

WARRANT TO ARREST IS NOT REQUIRED.

11. TAKING OUT OF MINT. Knowingly conveying out of any of His Majesty's Mints *into Canada* any instrument used in coining or any coin, bullion, etc.

Code, s. 557. Indictable.

WARRANT TO ARREST IS NECESSARY.

12. CLIPPING GOLD OR SILVER COIN, by diminishing or lightening the weight.

Code, s. 558. Indictable.

A.B., at , *on* , *did impair* (OR *diminish* OR *lighten*) *a current gold* (OR *silver*) *coin, to wit* (DESCRIBE) *with intent that it might pass for a current gold* (OR *silver*) *coin contrary to section 558 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

13. DEFACING COINS, either gold, silver or copper by stamping thereon any name or words and afterwards tendering the same.

Code, s. 559. Indictable.

A.B., at , *on* , *did unlawfully deface one current gold* (OR *silver* OR *copper*) *coin, to wit (describe) by stamping thereon the words* (SET OUT) *and did afterwards tender the same contrary to section 559 of the Criminal Code.*

WARRANT TO ARREST IS REQUIRED.

No prosecution under this section without the consent of the Attorney-General of the province.

14. POSSESSION OF CLIPPINGS or filings knowingly obtained by lightening gold or silver coin.

Code, s. 560. Indictable.

A.B., at , *on* , *unlawfully had in his possession or custody certain filings or clippings* (OR *gold* OR *silver bullion* OR *gold* OR *silver in dust* OR OTHERWISE STATING HOW) *which were produced or obtained by impairing* (OR *diminishing* OR *lightening*) *gold* (OR *silver*) *coin, knowing the same to be so produced or obtained, contrary to section 560 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

15. POSSESSION WITH INTENT TO UTTER, knowing to be counterfeit, any current gold or silver coin or three or more copper coins.

Code, s. 561. Indictable.

A.B., at , *on* , *had in his custody or possession with intent to utter the same one counterfeit coin resembling or intended to resemble or pass for a current gold* (OR *silver*) *coin to wit* (DESCRIBE) *knowing the same to be counterfeit contrary to section 561(a) of the Criminal Code,* (OR INSERT *three* (OR MORE) *pieces of counterfeit coin resembling or apparently intended to resemble or pass for current copper coins, to wit, one cent pieces knowing the same to be counterfeit contrary to section 561(b), etc.*).

WARRANT TO ARREST IS NOT REQUIRED.

16. MAKING COPPER COINS OR TOOLS, intended for counterfeiting copper coins or buys or sells counterfeit copper coins.

Code, s. 562. Indictable.

Information for making coins as in No. 6.

Information for making tools, etc., as in No. 10.

Information for trading in coins as in No. 7.

WARRANT TO ARREST IS NOT REQUIRED.

17. MAKING AND POSSESSION OF FOREIGN COINS intended to pass for gold or silver coins; brings the same into Canada or utters such coin; or makes any counterfeit foreign copper coin.

Code, s. 563. Indictable.

A.B., at , *on* , *did make* (OR *begin to make*) *a counterfeit coin resembling or apparently intended to resemble or pass for a gold* (OR *silver*) *coin of a foreign country, to wit, of* , *called* (NAME OF COIN) *contrary to section 563(a) of the Criminal Code.*

INFORMATION FOR OTHER OFFENCES AS IN THE CASE OF CURRENT COIN MAKING NECESSARY CHANGES.

WARRANT TO ARREST IS NOT REQUIRED.

18. UTTERING counterfeit gold or silver coin knowing it to be counterfeit.

Code, s. 564. Indictable.

A.B., at , on , did utter a counterfeit coin resembling or apparently intended to resemble OR *pass for a current gold* (OR *silver*) *coin, to wit, a five dollar gold piece, knowing the same to be counterfeit contrary to section 564 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

19. UTTERING lightened gold or silver coin; or false gold or silver coin of a value less than the coin for which it is uttered; or any counterfeit copper coin.

A.B., at , on , did utter as being current a certain silver coin to wit a fifty cent piece of less than its lawful weight knowing the said coin to have been impaired, diminished or lightened otherwise than by lawful wear contrary to section 565(a) of the Criminal Code,

OR

did with intent to defraud utter as being current silver fifty cent piece, a silver coin not being a current silver coin but resembling in size figure and colour a current silver fifty cent piece and being of less value than a current fifty cent piece contrary to section 565(b), etc.

Information for uttering copper coins as in No. 18.

20. UTTERING DEFACED COINS, i.e., coins defaced by having stamped thereon any names or words.

Code, s. 566. Summary conviction.

A.B., on , at , did utter six coins defaced by having stamped thereon the words A.B.C. contrary to section 566 of the Criminal Code.

WARRANT TO ARREST IS NECESSARY.

Consent of Attorney-General to prosecute is necessary (Code, s. 598).

21. UTTERING UNCURRENT COPPER COINS.

Code, s. 567. Summary conviction.

A.B., at , on , did utter six uncurrent copper coins each of the nominal value of cents, contrary to section 567 of the Criminal Code.

WARRANT TO ARREST IS NOT REQUIRED.

22. ADVERTISING COUNTERFEIT MONEY or where same may be obtained; using any fictitious name or address in such scheme; taking letter from mails addressed to fictitious name, or buys or offers to buy counterfeit money.

Code, s. 569. Indictable.

A.B., at , on , did print (OR *write* OR *publish* OR STATE THE MEANS OF ADVERTISING USED AS SET OUT IN THE SECTION) *a letter* (OR *circular* OR AS THE CASE MAY BE) *advertising* (OR *offering* OR *purporting to advertise* OR *offer*) *for sale* (OR *loan* OR AS THE CASE MAY BE USING WORDS OF SECTION) *a counterfeit token of value* (OR *bank note of bank* OR AS THE CASE MAY BE) *which purported to be a counterfeit token of value contrary to section 569(a) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

See section 981.

23. EVIDENCE.—In a large number of the sections it is declared that the onus is on the accused to show lawful authority or excuse. Counterfeit coins, etc., and machinery for making must be sent to the Minister of Finance at the conclusion of the case. Where it is required to prove coin counterfeit it is not necessary to have the evidence of an officer from the Mint whether the coin is current or foreign, the evidence of any witness is enough, section 980. A banker would be acceptable. The coin must be produced. "Counterfeit token of value" is defined in section 546(b) and includes coins, paper money and stamps, etc. "Current coins" defined section 546(c and d) and means coins which are lawful currency in Canada. A genuine coin altered to pass for one of higher denomination is a counterfeit coin, as is one on which the milling on the edge has been removed and a new milling cut, section 547. "Having in possession," see section 5(b). Counterfeiting can rarely be proved directly; it is usually done by circumstantial evidence such as the finding of equipment and coins in the process of manufacture.

COURTS

There are several kinds of courts for criminal trials. One justice of the peace can try summary conviction cases unless the section specifies two justices. A police magistrate has the power of two justices and may also try certain indictable offences with the consent of the accused. The County Court judge's Criminal Court is a court without a jury by which an accused may be tried with his consent. It sits between Sessions. This is called "Speedy Trial" and is regulated by Part XVIII. of the Code. The General Sessions of the Peace is a jury court for the trial of all criminal cases except murder, manslaughter, rape and other offences set out in the Code, section 583. The Assizes and General Sessions are courts of gaol delivery. All persons in gaol awaiting trial who can be tried should be brought before these courts. The Assizes can try any criminal case but the offences mentioned in section 583 *must* be tried there.

See Trial, place of.

COURT ORDER, DISOBEYING

Disobeying court order, without lawful excuse, other than for the payment of money, unless some other penalty is imposed or some other mode of procedure provided.

Code, s. 165. Indictable.

Warrant to arrest is necessary.

CRIMINAL INFORMATION

This is quite different from the information (or properly, the "complaint") used to initiate ordinary criminal proceedings.

The practice of filing criminal informations is now obsolete but may still be used. There are two kinds of criminal informations: (1) at the suit of a private party to which the King must join, and (2) at the suit of the King. The latter may be filed by the Attorney-General and are usually called "Ex-officio informations." The difference between an indictment and an information is that the former is found by twelve men and the latter is merely filed by one man. It was formerly employed in cases of high misdemeanor. It could not be used in cases of felony.

See "Complaint."

CRIMINAL NEGLIGENCE

Criminal negligence, by any unlawful act or by doing negligently or omitting to do any act which it is his duty to do, causes grievous bodily harm.

Code, s. 284. Indictable.

A.B., at , on , being then and there the driver of a motor car license No. , by negligently omitting to keep the said motor car under proper control did cause grievous bodily injury to C.D. contrary to section 284 of the Criminal Code.

Warrant to arrest is necessary.

Evidence.—Sec. 285 (1) deals with causing bodily harm by furious driving, etc., but it submitted that the charge may properly be laid under sec. 284 above because under sec. 285 it is not only necessary to prove all the ingredients of an offence under sec. 284, but in addition it is necessary to prove wanton or furious driving or racing. It has been held that a momentary lapse from duty not amounting to such a disregard of the lives and safety of others as to constitute a crime against the State is not an offence under this section. The contributory negligence of the person injured is immaterial. See sec. 247.

DAMAGE TO PROPERTY

Damage to property not otherwise specifically provided for.

Code, s. 539. Summary Conviction.

A.B., at , on , did wilfully and without legal justification, commit damage (OR *injure,* OR *spoil*) *to certain real* (OR *personal*) *property belonging to C.D., to wit* (STATE PROPERTY AND DAMAGE DONE) *contrary to the Criminal Code, section 539.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—It is a defence under section 540 that the accused acted under a reasonable supposition that he had a right to do the act, or a trespass not being malicious, committed while hunting or fishing. If the accused has a partial interest in the property damaged it is no excuse. See "MISCHIEF" for damage to specific property.

DEAD BODIES

DEAD BODIES. Without lawful excuse, neglecting to bury human remains, or improperly or indecently interferes with human remains whether buried or not.

Code, s. 237. Indictable.

A.B., at , on , did without legal excuse neglect to perform a duty imposed upon him by law (OR *undertaken by him*) *with reference to a dead human body, to wit: to bury the dead body of his infant child* (OR AS THE CASE MAY BE).

OR

did improperly (OR *indecently*) *interfere with* (OR *offer an indignity to*) *a human body, to wit: , by* (SET OUT THE ACT) *contrary to section 237* (*clause*) *of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—A person who digs up a dead body to sell for dissection is indictable at common law and is guilty under the above section. If a person under no legal obligation to do so removes a body for burial but neglects to do so he is liable under the above section. It has been held in England that a parent without means is not indictable for non-burial. An executor, the parents or a householder where a body is found would all appear to be under a legal duty to bury. It has been held that there is no property in a dead body, but an executor has a right to possession even against the immediate members of the family. Burning or cremation of a body is not an offence unless it creates a nuisance. It has been held that unlawful disinterment of a body irrespective of the motives is a misdemeanor at common law.

DEATH PENALTY, FALSE CERTIFICATE RE

See "PERJURY, 8."

DECLARATION, SIGNING PRETENDED

See "AFFIDAVIT."

DECORATIONS

DECORATIONS. Without lawful authority, wearing uniform of His Majesty's naval, land or air forces, or any wound stripes, military medal, ribbon or decoration, having certificate of discharge not his property, or having commission or discharge certificate which has been altered and is not verified by initials.

Code, s. 438. Summary Conviction.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Prove that accused wore such uniform, etc., or had such certificate, the onus is on him to prove the lawful authority (subsection 2).

DEFACING POSTERS

DEFACING POSTERS posted up in electric, gas and water works containing section 499 of the Code regarding breaches of contract by workmen.

Code, s. 500. Summary conviction.

A.B., at , on , did injure (*deface* OR *cover up*) *a poster containing section 499 of the Criminal Code contrary to section 500* (*3*) *of the Criminal Code.*

SUMMONS IS SUFFICIENT.

DEFAMATORY LIBEL

Defamatory libel, is exhibiting in public or causing to be seen or read by any person a libel likely to injure the reputation of anyone by exposing him to hatred, contempt or ridicule or designed to insult the person concerning whom it is written.

Code, ss. 303 and 304. Indictable.

Warrant to arrest is necessary.

Evidence.—See sections 317-334. The complainant in these cases should see his lawyer and have him take it up directly with the Crown Attorney. It is unusual for the Government to assume any expense in these prosecutions; the complainant is asked to furnish counsel at the Assizes which alone can try.

DEPORTATION

Deportation. The deportation of aliens from Canada rests wholly with the Immigration Department under the provisions of the Immigration Act. A judge cannot order deportation. He can only recommend it to the Department.

When a fugitive escapes to a foreign country it is sometimes possible to have the immigration authorities of the foreign country arrest the fugitive and deport him. This action will only be taken, of course, when the fugitive is an alien in the country to which he has escaped; has entered the country illegally or has a criminal record. In other cases extradition proceedings must be taken. This method is dealt with under that heading.

DESERTERS

1. Persuading soldiers and sailors to desert.
2. Resisting search for deserters.
3. Persuading R.C.M.P. or militiaman to desert.
4. Buying clothing, etc., from soldiers.

1. Persuading soldier or sailor to desert His Majesty's service; or concealing deserters.

Code, s. 82. Indictable or Summary Conviction at option of Crown.

A.B., at , on , not being an enlisted soldier or sailor in His Majesty's service persuaded (or *endeavoured to persuade*) *A.B., a soldier* (or *seaman*) *in His Majesty's service to desert* (or *concealed* or *assisted A.B., a deserter from His Majesty's military* (or *naval*) *forces*) *contrary to section 82* (clause) *of the Criminal Code.*

Warrant to arrest is necessary.

2. Resisting execution of warrant to search for deserters.

Code, s. 83. Summary Conviction.

3. Persuading militiaman or R.C.M. Policeman to desert, or assists or conceals a deserter.

Code, s. 84. Summary Conviction.

4. Buying clothing or equipment from soldier or sailor, or changes colour of clothing, or buys provisions from soldier, or receives such articles.

Code, s. 439. Indictable or Summary Conviction at option of the Crown.

Warrant to arrest is necessary.

Evidence.—Section 432 describes the marks on public stores. Section 991 deals with the evidence of enlistment and that accused is presumed to have known that stores purchased bore the Government mark.

DESTRUCTION OF DOCUMENTS OF TITLE, WILLS, ETC.

Destroying, cancelling, concealing or obliterating any document of title to goods or land, valuable security, testamentary instrument, or judicial or official documents for any fraudulent purposes.

Code, s. 396. Indictable, see sections 361-3.

A.B., at , on , did destroy (OR *conceal* OR *cancel* OR *obliterate*) *a certain document of title*[1] *to goods, to wit:* (DESCRIBE) OR[1] *to lands, to wit: a deed C.D. to E.F. of* (DESCRIBE LAND) OR *a valuable security, to wit, a bond* OR DESCRIBE IT OR *a testamentary document, to wit, The Last Will and Testament of one C.D.* OR DESCRIBE THE JUDICIAL OR OFFICIAL DOCUMENT *for the purpose of defrauding one E.F., contrary to the provisions of section 396 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—Definitions, document of title to goods, sec. 2 (11) to lands, sec. 2 (12), valuable security, sec. 2 (43) testamentary instrument, sec. 2 (40).

DISORDERLY HOUSES

1. Keeping a bawdy house and being an inmate.
2. Keeping a gaming house.
3. Keeping a betting house.
4. Found in.
5. Allowing premises to be used as.
6. Obstructing search of.
7. Permitting chains or bolts.

Pool selling, etc., see "GAMBLING."

1. A COMMON BAWDY HOUSE is a house, room or place kept for purposes of prostitution or for acts of indecency. Keeping a bawdy house or being an inmate.

Code, s. 229. Indictable

A.B., at , on , and on divers other days and times since that date did keep and maintain (OR *was an inmate of*) *a disorderly house, to wit, a common bawdy house at No. Street contrary to section 229 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Definition of bawdy house, sec. 225. If a landlord does not terminate the tenancy after a conviction and there is another offence he is deemed the keeper (sec. 229 (5). Sexual intercourse confined to one man is not prostitution. A motor-car used for prostitution is a bawdy-house within this section. Evidence of general reputation of a house is admissible. It is prima facie evidence if a constable is obstructed in entering the house, sec. 986. "Place" is defined in sec. 227 (2). It has been held that a man cannot be convicted of being an "inmate" but of being "found in." Search of, see sec. 641, and for form of order, see "SEARCH, 6."

2. A COMMON GAMING HOUSE is a place kept for gain where persons resort to play games of chance or games of mixed chance and skill or, in short, where the house takes a rake-off. Keeping a Gaming House,

Code, s. 229. Indictable.

Information as in No. 1.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Gaming house defined, sec. 226. Place is defined to be any place inclosed or not, sec. 227 (2). A charter as a club does not permit anything to be done that could not be done without the charter in so far as gaming is concerned. The gist of the offence is "rake-off," irrespective of the amount. If the keeper's chances are more favourable than the other players, it is a gaming house. Finding of gaming implements is prima facie evidence (sec. 985). Resistance to police is prima facie evidence (sec. 986). Search of gaming-house (sec. 641 as enacted in 1930 c. 11, s. 19), see "SEARCH, 6" for form of order—and evidence of persons found in, sec. 642. Re automatic vending machines, sec. 986 (4). Most of decisions regarding these machines are decisions of fact and therefore do not bind any lower court. Employees engaged to manage an incorporated club are keepers within the section.

3. A COMMON BETTING HOUSE is a house or place kept for betting between the keeper and any other person; between persons resorting thereto; or for receiving money on bets or recording bets on any event.

Keeping a betting house.
Code, s. 229. Indictable.
Information as in No. 1.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Definition, sec. 227. Place defined to be any place inclosed or not, sec. 227 (2). The section does not apply to private bets between persons not engaged in the business of betting; of bets between not more than ten individuals or of bets made at a pari-mutuel on a race course incorporated before the 20th of March, 1912, or incorporated after that date by special Act of the Parliament of Canada, or of one of the Provinces under certain conditions, sec. 235 (2). The above section does not sanction private persons carrying on a betting business on a race-track where betting may be done. See EVIDENCE, under No. 2.

4. BEING FOUND IN, without lawful excuse. Disorderly house is any bawdy-house, gaming-house or betting-house (sec. 229).
Code, s. 228 (1). Summary Conviction.

A.B., at , on , was found in a disorderly house, to wit, a common gaming-house (OR AS THE CASE MAY BE) *at* (DESCRIBE LOCALITY) *contrary to section 228 (1) of the Criminal Code.*

5. ALLOWING PREMISES TO BE USED as disorderly house.
Code, s. 228 (2). Summary Conviction.

A.B., at , on , being landlord (lessor OR *tenant* OR *agent) of No.* (GIVE NUMBER AND STREET) *did permit such premises to be used for a disorderly house, to wit, a common gaming-house* (OR AS THE CASE MAY BE) *contrary to section 228 (2) of the Criminal Code.*

6. OBSTRUCTING, PREVENTING OR DELAYING OFFICERS IN SEARCH of disorderly house.
Code, s. 230. Summary Conviction.

A.B., at , on , did prevent (OR *obstruct* OR *delay*) *C.D., a police officer, duly authorized to enter the same, from entering a disorderly house at* (DESCRIBE WHERE) *contrary to section 230 of the Criminal Code.*

7. OWNER or other person in control of premises used as a disorderly house allowing anything upon the premises for purpose of preventing, obstructing or delaying the entry of any officer.
Code, s. 230 (e). Summary Conviction.

A.B., at , on , being the owner (OR *having control*) *of premises used as a disorderly house at* (DESCRIBE WHERE) *knowingly allowed a contrivance, to wit, a bolt* (OR *chain* OR DESCRIBE IT) *for purpose of preventing, obstructing or delaying the entry of any constable or officer authorized to enter, contrary to section 230 (e) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—**1.** Prove that house was a disorderly house, i.e., common bawdy-house, gaming-house or betting-house; that accused was found there.

2. Prove that accused is landlord, lessor, occupier or agent, and has knowledge of the use of premises, and of contrivance.

DISORDERLY CONDUCT

See "VAGRANCY."

DISOBEYING A STATUTE

DISOBEYING A STATUTE, without lawful excuse, either of the Dominion or one of the provinces by wilfully doing any act which it forbids or omitting to do any act which it requires to be done, unless some other penalty is prescribed.
Code, s. 164. Indictable.

A.B., at , on , did wilfully and without lawful excuse disobey a certain statute of the Ontario Legislature, to wit (STATE) *by doing* (OR *omitting to do*) (STATE WHAT) *in contravention of the terms of section of the said Act, contrary to section 164 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The disobedience must be shown to be wilful and not punishable under the statute itself. If an act of a legislature forbids a person voting twice at an election, and provides no penalty for so doing, it is an offence under the above section.

DOGS, KEEPING VICIOUS

Any person who keeps a dog which bites anyone may be charged with maintaining a common nuisance, or it is submitted that he might be charged with criminal negligence under the Code, s. 284 (see section 247). In Ontario The Dog Tax and Sheep Protection Act was amended in 1931 to provide that the owner of such a dog might be summoned before a magistrate and the dog ordered to be destroyed.

DOGS

Dogs, killing, wounding or poisoning.
See "ANIMALS."

DRUGS, ADMINISTERING STUPEFYING

See "ASSAULT."

DRUGS

See "OPIUM AND NARCOTIC DRUG ACT."

DUELS

Challenges or endeavors to provoke any person to fight a duel or to challenge any other person.

Code, s. 101. Indictable.

A.B., at , on , did challenge C.D. (OR *endeavor to provoke C.D.*) *to fight a duel contrary to section 101 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—A duel is a fight with deadly weapons by previous mutual agreement. If one kills the other, he and the seconds of both parties and those attending will be guilty of murder. If a letter of challenge is sent it is immaterial that it was not received by the person to whom addressed.

ELECTION DOCUMENTS

Destroying or injuring or making any erasures or additions to election documents, for Dominion, provincial or municipal elections.

Code, s. 528. Indictable.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—It must be done wilfully (sec. 509) and without legal justification or excuse (sec. 541). For definitions, see "EVIDENCE" under "ARSON."

ELECTION FUNDS, CONTRACTOR SUBSCRIBING

See "BRIBERY AND CORRUPTION, 3."

ESCAPES

1. Unlawfully at large.
2. Alien enemy, assisting to escape.
3. Prison breach.
4. From prison.
5. From other custody.
6. Skipping bail.
7. Rescue of prisoners.
8. Permitting an escape intentionally.
9. Permitting an escape by negligence.
10. Conveying things into prison.
11. Causing release by pretended authority.

1. Being unlawfully at large before the expiration of his term of imprisonment.

Code, s. 185. Indictable.

A.B., at , on , having been sentenced to six months' imprisonment at the Court of General Sessions of the Peace on the day of , 19 , such sentence not having expired, was unlawfully at large contrary to section 185 of the Criminal Code.

Warrant to arrest is not required.

Evidence.—A person out on parole is unlawfully at large if he fail to keep the conditions thereof. Produce the original conviction, evidence of identification. The onus is on the accused to show that he is lawfully at large.

2. Alien enemy,—assisting to escape whilst a prisoner of war or on parole.

Code, s. 186. Indictable.

Warrant to arrest is necessary.

3. Prison breach consists of using force or violence to break any prison to escape or permit any one else to escape.

Code, s. 187. Indictable.

A.B., at , on , by force (or *violence*) *did break a prison, to wit, the common gaol of the county of with intent to set at liberty himself* (or *one C.D.*) *he being confined therein on a criminal charge, to wit* (state) *contrary to section 187 of the Criminal Code.*

Warrant to arrest is not required.

Evidence.—Prison is defined in sec. 2(29): Climbing over the wall is not an offence under this section, there must be a breaking or some violence. The attempt to break prison is an offence under sec. 188. A warrant is necessary to arrest.

4. Escaping from custody after conviction or escaping from prison before conviction.

Code, s. 189. Indictable.

A.B., at , on , having been convicted at Court on the day of , 19 , of the offence of and being in lawful custody in the common gaol of the county of (or *in charge of one C.D. a peace officer by whom he was then lawfully being conveyed to prison* or as the case may be) *did escape from such custody contrary to section 189 (clause) of the Criminal Code.*

Warrant to arrest is not required.

Evidence.—Prove the lawful custody by the production of the warrant of commitment; the identity of the prisoner and the escape.

5. Escaping from custody other than as above, that is before conviction escaping from the custody of a peace officer.

Code, s. 190. Indictable.

Information as above making necessary changes.

Warrant to arrest is not required.

Evidence.—The legality of the arrest must be shown if the charge is escaping from a police officer.

6. Skipping bail,—Being under bail to appear at court and failing to do so.

Code, s. 189(c). Indictable.

A.B., at , on , being on bail charged with the offence of , to appear at court on the day of , 19 , without lawful excuse did not present himself at the said time and place contrary to section 189(c) of the Criminal Code.

Warrant to arrest is not required.

7. Rescue of person from prison or assisting him to escape.

Code, ss. 191(a) and 192(a). Indictable.

A.B., at , on , did rescue C.D. (or *assist C.D. in escaping* or *assist C.D. in attempting to escape*) *from lawful custody in the gaol of the county of* (or from an

OFFICER OR OTHER PLACE AS THE CASE MAY BE) *where the said C.D. was under sentence of upon the charge of , contrary to section (a) of the Criminal Code.*

NOTE:—*(If the person rescued or assisted was sentenced to death or imprisonment for life, the charge is under section 191(a); if sentenced for any other period or in custody charged with an offence the charge is under section 192(a).*

WARRANT TO ARREST IS NECESSARY.

8. OFFICER PERMITTING AN ESCAPE intentionally.

Code, ss. 191(b) and 192(b). Indictable.

A.B., at , on , then being a peace officer (OR *an officer of a prison) having one C.D. in lawful custody sentenced to upon a charge of , did voluntarily and intentionally permit the said C.D. to escape contrary to section (b) of the Criminal Code.* (See note under No. 7.)

WARRANT TO ARREST IS NECESSARY.

9. OFFICER PERMITTING AN ESCAPE BY FAILING TO PERFORM HIS DUTY.

Code, s. 193. Indictable.

A.B., at , on , being a peace officer and as such having in his custody one C.D. on a criminal charge, to wit (STATE) *did by failing to perform a legal duty then imposed upon him the said A.B. to wit* (STATE THE FAILURE IN DUTY) *permit the said C.D. to escape from custody contrary to section 193 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Prove that A.B. is a peace officer and had C.D. in actual lawful custody; prove the escape. It is not really necessary to prove negligence the law implies it; it should be proved however where possible. The accused may of course prove that he was not negligent.

10. CONVEYING THINGS INTO PRISON with intent to facilitate a prisoner to escape.

Code, s. 194. Indictable.

A.B., at , on , did with intent to facilitate the escape of C.D., a prisoner lawfully imprisoned in the common gaol of the County of , convey (OR *cause to be conveyed) a certain (state the article) into the said prison contrary to section 194 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Prove that C.D. was in custody in the prison mentioned in the charge; that the accused conveyed files or other implements to him with intent to escape. The mere delivery of files is a fact from which the intent could be inferred.

11. CAUSING DISCHARGE OF PRISONER under pretended authority and the prisoner so discharged shall be held to have escaped.

Code, s. 195. Indictable.

A.B., at , on , did knowingly and unlawfully under colour of pretended authority, to wit (STATE WHAT, SUCH AS THE PRODUCTION OF A FALSE DISCHARGE) *procure the discharge of one C.D., a prisoner in the common gaol of the County of , where he was serving a sentence for a criminal offence, to wit* (OFFENCE) *he the said A.B. knowing that the C.D. was not entitled to be so discharged, contrary to section 195 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE

1. Generally.
2. Direct.
3. Circumstantial.
4. Character.
5. Similar acts.
6. Experts.
7. Hearsay.
8. Dying declarations.
9. Complaints after rape.
10. Admissions by the accused.
11. Confessions.
12. Husband and wife.
13. Accomplices.
14. Children.
15. Corroboration.

1. In general evidence consists of proof, in accordance with legal principles, of the various elements necessary to establish that the charge laid was in fact committed by the accused.

For instance let us take a common offence such as obtaining money by false pretences. The ingredients of the offence which must be proved are:

(a) the making of a representation by the accused;
(b) that it was a false representation;
(c) that he knew it was false;
(d) that he made it with a fraudulent intent to induce the other person to act on the representation;
(e) that the other person was induced by the representation of the accused to give money to him.

The evidence offered in support of such a charge will be rejected unless it goes to prove one or more of these elements. If it does, it is relevant and admissible, if not it is irrelevant and inadmissible unless allowed to go in under some special rule.

2. Some of these points may be proved by direct evidence, that is evidence by some person or document as to the actual fact, such as a letter containing the false statement, or evidence by a person who heard the accused state it. The falsity of the statement is likewise provable by direct evidence, and also the parting with the money as a result of the representation.

3. The knowledge of the accused that the statement was false, however, and his intent to defraud are not provable in most cases by direct evidence, unless in the form of statements, admissions or letters of the accused. They are more usually matters of inference from other evidence from which deductions may be made. This other indirect or circumstantial evidence, as it is called, is dangerous, because incorrect inferences may be drawn.

If it were proven that the accused had in his office papers which, had he seen them, would have established the falsity of his statement, gives rise to an inference that as a reasonable man he must have seen them. But the danger lies in the possibility that he did not see them, for his partner may have kept them out of his sight. For this reason the courts have held that juries must be directed by the judge not to convict upon circumstantial evidence unless the facts are inconsistent with any other rational conclusion.

An intelligent officer will, therefore, rely as little as possible upon evidence of this nature, but if he is forced to do so he should spare no effort to unearth every bit of evidence which will, with all of the facts, make the inference of guilt almost irresistible, for it is quite possible to prove a charge by circumstantial evidence alone.

4. Character evidence is not material to most issues before the criminal courts, and the prosecution may not, therefore, attack the character of the accused in the first instance. In defence, evidence of the accused's general reputation is admissible to show that he was not apt to have committed the offence charged. If he does this the prosecution may adduce evidence of the bad character of the man, and a wise officer will be prepared with certificates of previous convictions or other evidence. See Canada Evidence Act, s. 12, and Code, s. 982. In rape and similar cases where the character of the complainant is material, the defence may attack it, so the officer in charge of the case should be in a position to warn counsel for the Crown what evidence of this sort may be expected.

The general character of a house of ill-fame may be proven by evidence of its reputation and also by specific facts.

5. Where it can be shown that the accused has committed similar acts to that charged, evidence of them is admissible to show, say intent to defraud, in view of both previous and subsequent defrauding of other people or of the same person.

Such evidence is also admissible to establish a scheme, system, plan or design by the accused, and to rebut a defence by him that what took place was by reason of accident or mistake, or was innocently done.

Motive, guilty consciousness and identity may likewise be better proven where similar acts can be found. Officers will do well to find out everything possible about the accused and have the evidence available for study by the Crown counsel.

6. Expert evidence, because it is merely the opinion of someone specially trained, and not direct proof of any fact, is only admitted where the witness, because of his study of facts already in evidence, can draw inferences from them which would be beyond the powers of the average juryman. Before such evidence is receivable the qualifications of the expert to speak with authority on the matter in issue, must be established. They are only to be regarded as assisting the jury who may disregard the views of every expert if they choose.

Experts may be called to prove the chemical contents of the stomach of one suspected to have been poisoned, or the pathological condition of organs in cases of wounds, abortions, drownings, etc., and in all such cases the greatest care must be taken if it is necessary to send any organ away to be examined. The questions of identification and custody being most important, every precaution to prevent doubt arising under these headings must be taken by the officer, as defence counsel will be only too happy to bring out evidence of carelessness in the handling, marking, identifying and safekeeping of such things.

Expert accountants may also be called to give evidence of what the books show, and men skilled in the science of ballistics are now being used to identify the weapon used to fire missles that have caused death.

7. Hearsay evidence, the statement by one person of what another said is excluded because the person making the original statement is not on oath and cannot be cross-examined, but this does not apply to remarks by the accused, whose acts and words,

on material points can only be proved by those who observed or heard them.

Certain exceptions to this rule exist including dying declarations, complaints after rape, admissions and confessions.

8. Dying declarations or ante-mortem statements are received in homicide cases, where the words of the deceased, spoken when he was under a settled hopeless expectation of death are accepted as having the adequacy of an oath. Any hope of recovery will render the evidence inadmissible, and the courts always insist upon the most careful proof of the circumstances under which the statement was made. That "there must be an unqualified belief, without any hope of recovery that the declarant is about to die," is the way one judge expressed it. Proof of this does not depend only on the words of the deceased, for inferences may be drawn as to his feelings from the evidence of the doctor and others of his condition and conduct. It is better, in case of doubt to have a statement to that effect from the deceased, in writing or in words, either just before or after the principal declaration is made.

Such a statement may be as follows: I, A.B., being of the firm belief that my death is certain and imminent, with no hope of recovery, declare that ——.

9. Complaints after rape are receivable in evidence, not in any way as evidence of the facts complained of, but to show consistency of conduct on the part of the ravaged woman with her story as a witness, and to offset any attempt to show that she consented.

The length of time between the act charged and the complaint are important, as if too long a time intervenes the evidence will be rejected. The time may be longer in the case of children of tender years than in the case of older girls and women, but each case largely depends on its own circumstances, and the opportunity afforded to make a complaint to one in whom the complainant is most likely to confide, such as a child to her mother, a girl to a close friend, a wife to her husband.

10. Admissions by the accused, as already explained, are evidence against him. This includes his conduct, such as silence when accused of a crime which an innocent person would at once deny, especially if the accused in any way appears to accept the truth of the charge. Code, s. 685 deals with both admissions and confessions.

11. Confessions to police or other persons in authority are always scrutinized by the courts with the greatest care before they are accepted. The circumstances under which the confession was made must be given in detail so that the court may determine whether the statement was made voluntarily—that is the test—if there is any suggestion that there was any inducement, threat or coercion, the evidence will be rejected. In the words of the Supreme Court of Canada, "that burden (of proving the confession to have been given freely) can rarely, if ever, be discharged merely by proof that the giving of the statement was preceded by the customary warning and an expression of opinion on oath by the police officer who obtained it, that it was made freely and voluntarily; what took place in the process by which the statement was ultimately obtained should be fully disclosed; and, with all the facts before him, the judge should form his own opinion that the tendered statement was indeed free and voluntary, before admitting it in evidence."

As a matter of law, no caution or warning by the police officer to the accused is necessary, but the fact that the latter is in custody is an important factor and gives rise to a possibility of inducement that is best rebutted by the warning that he is not obliged to answer questions, and that if he does his statements will be used against him.

If he is willing to make a written statement it is better to let him write it himself, prefaced by words to the effect that he is making it freely and voluntarily, notwithstanding that he has been warned that he need not write anything, and that what he writes will be used in evidence against him.

For safety's sake each officer who talks to him should repeat the warning, and there should be no need to resort to false statements to the accused in order to trick him into making an incriminating remark.

Juries are very suspicious of a confession, and no officer should rely on such proof only.

12. Husband and wife in general are not compellable witnesses for the Crown against each other, although competent witnesses for the defence. In cases of offences against morality, such as buggery, incest, public indecency, gross indecency between males, seduction of various kinds, procuring, defiling, carnally knowing idiots, vagrancy, neglect to provide, rape, carnal knowledge, bigamy, polygamy, solemnizing unlawful marriage, bodily violence by the other, and abduction, one spouse is a competent and compellable witness for the Crown against the other.

13. Accomplice's evidence as a rule of practice, should be corroborated by some other material evidence implicating the accused, and juries are always warned that although they may convict without such corroboration, it is dangerous to do so. The test as to whether a witness is an accomplice or not is whether he could be charged with the same crime for which the accused is standing trial, so that all who might be charged as parties to the same offence, not a similar one, are accomplices. This does not include accessories after the fact, nor police spies or spotters, though there are a few decisions to the contrary in the case of spotters.

14. Children of tender years must be corroborated if their unsworn evidence is received under Code s. 1003 or s. 16 of the Canada Evidence Act, by evidence other than the unsworn evidence of another child. Before this evidence is received the child's understanding of what is means to tell the truth must be satisfactory to the judge.

15. When corroboration is necessary to prove an offence, the expression means that an accused person shall not be convicted upon the evidence of one witness, unless such witness is corroborated in some material particular by evidence implicating the accused. The following offences under the Criminal Code require to be corroborated (Code, s. 1002):

S. 74. Treason.
S. 174. Perjury.
S. 211. Seduction of girl above age 16 and under 18.
S. 212. Seduction under promise of marriage.
S. 213. Seduction by foster-parent or employer.
S. 214. Seduction of passenger on ship by officer.
S. 215(1). Procuring defilement by parent or guardian.
S. 216. Procuring for prostitution, living on avails of prostitution, etc.
S. 217. Householder permitting defilement.
S. 218. Conspiracy to defile.
S. 219. Carnally knowing idiot.
S. 220. Prostitution of Indian woman.
S. 301. Carnal knowledge of girl under 14.
S. 301(2). Carnal knowledge of girl above 16 and under 18 (sec. 301(2)).
S. 309(2). Feigned marriage.
S. 468-70. Forgery.

The evidence of a child given not under oath is receivable but must be corroborated (s. 1003(2)). Can. Evid. Act, s. 16.

EXCISE ACT

Excise act, R.S.C. Chap. 60. This is not a full list of offences under this Act, but only of the principal offences dealing with unlawful distilling:

(a) distilling any spirits, or making or fermenting any beer without a license;
(b) assists in distilling or rectifying, or in making beer in any unlicensed place;
(c) imports, makes, sells, etc., any still, worm or any part of apparatus for manufacture of spirits or beer;
(d) completely or partially sets up apparatus;
(e) has in possession any apparatus or any beer or wash suitable for the making of spirits without having given notice to an inspector;
(f) conceals or keeps any apparatus or beer or wash;
(g) conceals by removing any apparatus or beer or wash.

Section 176. Indictable offence.

A.B., at , on , not having a license then in force issued under the authority of the Excise Act, did (here set out the offence (one only) under the terms of the section) contrary to the provisions of the Excise Act, section 176, clause .

The information must show that the informant is an Inland Revenue officer, or has a writ of assistance issued under sections 87 or 88.

Evidence.—The charge must be laid within two years, sec. 130. A certificate of analysis issued by the Dominion analyst or the analyst of any department of the Dominion or a provincial government is prima facie proof of its contents. Section 85(2) specifically gives to officers with a writ of assistance power to arrest persons found committing any offence declared to be indictable. It is submitted therefore that only Inland Revenue officers or those with writs of assistance should make arrests under this Act.

EXECUTION OF DOCUMENTS BY FORCE

See "Force compelling execution of documents."

EX-OFFICIO INFORMATION

See "Criminal information."

EXPLOSIVES ACT

Explosives act, R.S.C. Chap. 62. This Act is for the purpose of regulating the importation and manufacture of explosives. It is administered by the Minister of Mines, Ottawa. A pamphlet is issued by that department containing the regulations passed under the Act. Section 23 provides that any person who has in his possession, sells, offers for sale or manufacture, any explosive without authority is guilty of an offence punishable on summary conviction.

EXPLOSIVES

1. Causing explosion likely to endanger life or property.
2. Placing in buildings or ships to injure.
3. Conspiring to cause an explosion dangerous to life or property.
4. Having with intent.
5. Having unlawfully.
6. Causing bodily injury by.
7. Causing explosion with intent.
8. Sending explosives, etc., with intent.
9. Throwing at person.
10. Placing in building with intent to injure person.

See also "Mischief."

1. Causing an explosion likely to endanger life or seriously injure property .

Code, s. 111. Indictable.

A.B., at , on , did wilfully cause an explosion at , by means of an explosive substance and did thereby endanger life (or *expose property to serious injury*) *contrary to section 111 of the Criminal Code.*

Warrant to arrest is necessary.

Evidence.—"Explosive substance," defined sec. 2(14). It is an offence under the above whether injury to person or property is caused or not.

2. Placing explosive substance into or near any building or ship with intent to destroy or damage it or the contents, whether an explosion takes place or not.

Code, s. 112. Indictable.

A.B., at , on , did throw (or *place*) *an explosive substance into* (or *near*) *a building* (or *a ship, named*) *with intent to destroy or damage the same* (or *certain machinery or working tools therein*) *contrary to section 112 of the Criminal Code.*

Warrant to arrest is not required.

Evidence.—The explosive must be in a condition to explode. It has been held that if a bomb is thrown and the fuse not lighted that it is not an offence under this section.

3. Doing any act or conspiring to cause an explosion likely to endanger life or seriously injure property.

Code, s. 113(a). Indictable.

A.B., at , on , did wilfully conspire with C.D. to cause by an explosive substance, an explosion likely to endanger life (or *to cause serious injury to property* describe the location) *contrary to section 113(a) of the Criminal Code.*

Warrant to arrest is necessary.

4. Making or having possession of explosives with intent to endanger life or cause serious injury to property.

Code, s. 13(b). Indictable.

A.B., at , on , wilfully made (or *had in his possession* or *under his control*) *an explosive substance with intent to endanger human life* (or *to cause serious injury to property* or *to enable C.D. or some person or persons unknown by means thereof to endanger human life* (or *to cause serious injury to property*)) *contrary to section 113(b) of the Criminal Code.*

Warrant to arrest is necessary.

No further proceedings shall be taken under this clause without the consent of the Attorney-General of the province, except such as the justice thinks necessary to remand or secure the safe custody of the accused (sec. 594).

5. Making or having possession of explosives which gives rise to a suspicion that it is made or kept for an unlawful purpose; or having bombs, grenades, etc., without lawful excuse.

Code, s. 114. Indictable.

A.B., at , on , did unlawfully make (OR *knowingly have in his possession* OR *under his control*) *an explosive substance under such circumstances as to give rise to a reasonable suspicion that he was not making* (OR *that he did not have in his possession*) *the same for a lawful object, which circumstances were as follows* (SET OUT) *contrary to section 114(1) of the Criminal Code.*

OR

A.B., at , on , did without lawful excuse have in his possession a bomb (OR *grenade*) *contrary to section 114(2) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The possession of the bomb or grenade is prima facie evidence of unlawful possession.

6. Causing bodily injury by explosives.

Code, s. 279. Indictable.

A.B., at , on , did by means of an explosion caused by an explosive substance, burn (OR *maim* OR *disfigure* OR *disable* OR *do grievous bodily harm to*) *C.D., contrary to section 279 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—Prove that A.B. caused the explosion, that an explosive substance as defined in sec. 2(14) was used and that C.D. was burned, etc.

7. Causing explosion with intent to maim, etc.

Code, s. 280(a) (i). Indictable.

A.B., at , on , did unlawfully and with intent to burn (OR *maim* OR *disfigure* OR *disable* OR *do grievous bodily harm to*) *C.D., did cause an explosion by means of an explosive substance, contrary to section 280(a)(i) of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

8. Sends explosives or other dangerous or noxious thing with intent to maim, etc.

Code, s. 280(a)(ii). Indictable.

A.B., at , on , did unlawfully send to (OR *delivered* OR *cause to be taken* OR *received by C.D.*, *a certain explosive substance* (OR *a dangerous or noxious thing* DESCRIBING IT) *with intent to burn* (OR AS ABOVE) *the said C.D., contrary to section 280(a)(ii) of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

9. Puts or casts upon any person any corrosive fluid or destructive or explosive substance.

Code, s. 280(a)(iii). Indictable.

A.B., at , on , did put or lay upon the public highway (OR *did cast or throw at C.D.*) *a corrosive fluid* OR *a dangerous or explosive substance contrary to section 280(a)(iii) of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

10. Throws explosive against or near a building or ship with intent to injure any person.

Code, s. 280(b). Indictable.

A.B., at , on , did unlawfully and with intent to do bodily injury to C.D., throw into or upon or against (OR *near*) *a certain building* (OR *ship*) (DESCRIBE) *an explosive substance, contrary to section 280(b) of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—The intent may of course be inferred from the circumstance if no direct proof is available.

EXTORTION

1. Letter demanding property.
2. Demanding with intent to steal.
3. Extortion by accusing of crime.
4. Extortion by libel.

1. Letter demanding property with menaces, sending or delivering or uttering, or directly or indirectly causing to be received knowing the contents thereof, any letter or writing demanding with menaces and without any reasonable or probably cause, any property, money, etc.

Code, s. 451. Indictable.

A.B., at , on , did send (or *deliver* or *utter* or *cause to be received*) *knowing the contents thereof a letter or writing demanding of one C.D. with menaces, and without any reasonable or probably cause the sum of five dollars* (or *one horse* or as the case may be) *contrary to section 451 of the Criminal Code.*

Warrant to arrest is not required.

Evidence.—Give the writing in evidence and prove the handwriting of the accused by an expert or by someone who knows his writing; that it was posted or left where the accused knew the complainant would get it. Menaces are threats of violence to person or property or the accusation of crime. The language may be veiled. "Writing" is defined in sec. 2(45).

2. Demanding property with intent to steal, either for himself or some other person with menaces demanding anything capable of being stolen.

Code, s. 452. Indictable.

A.B., at , on , did with menaces demand from one C.D., the sum of five dollars (or *one horse* or as the case may be) *with intent to steal the same, contrary to the provisions of section 452 of the Criminal Code.*

Warrant to arrest is not required.

Evidence.—The menaces may be by words or gestures and be such as to take away from the person on whom they operate the element of voluntary giving. If the money is due to the defendant it is not an offence, the element of the offence is the intent to steal.

3. Extortion by accusing or threatening to accuse of crime, or by threatening that the accusing shall be made by any other person, or causes any person to receive a document containing such accusation, or by means of the above obtains the execution of any document, whether the person is guilty or not.

Code, ss. 453 and 454. Indictable.

A.B., at , on , did accuse (or *threaten to accuse*) *C.D. of the offence of* (state any offence mentioned in sections 453 or 454) *with intent*[1] *to extort* (or *gain*) *money* (or name the thing) *from the said C.D., contrary to the provisions of the Criminal Code, section 453* (or *454*)

or

[1] *to compel* (*or attempt to compel*) *the said C.D. to execute* (or *make* or *accept* or *endorse* or *alter* or *destroy* or to impress or affix any name or seal) *a valuable security, to wit* (*name it*) *in order that it might be made* (or *converted into* or *used as* or *dealt with as*) *a valuable security.*

See form of information under 1 for an offence under this section of extortion by letter.

Warrant to arrest is not required under section 453 but is necessary under section 454. The difference between the two sections is the nature of the crime that it is threatened to charge.

Evidence.—It is not necessary that the threat should be a threat to accuse before a court; before any third party is sufficient. It is no defence that the person is guilty of the crime, the gist of the offence is the intent to extort or gain. If threats in writing, see other offences under this heading.

4. Extortion by libel, by publishing or threatening to publish or offers to abstain from publishing or to prevent the publishing of a defamatory libel with intent to extort money or obtain for any person any appointment or office of profit or trust, or who does any of the above because such money or office has been refused to him.

Code, s. 332. Indictable.

A.B., at , *on* , *did publish* (OR *threaten to publish*, OR *offer to abstain from publishing* OR *offer to prevent the publication of*) *a defamatory libel*[2] *with intent*[1] *to extort money from C.D.* (OR[1] *to induce C.D. to confer upon* (OR *procure for*) *him* (OR *one E.F.*) *an appointment as* (NAME THE POSITION) (OR[2] *by reason of the refusal of C.D. to pay to the said A.B., a sum of money* (OR TO APPOINT SOME ONE AS ABOVE) *contrary to the provisions of the Criminal Code, section 332.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Prove the threats to publish the libellous matter The nature of the matter proposed to be published must be proved to determine whether or not it is libellous. The intent to extort money may be implied from circumstances and does not require an express demand. It is no offence if the money is due and owing or if it is honestly believed so to be.

EXTRADITION

1. From Canada. 2. To Canada.

Treaties have been made with most countries for the mutual surrender of persons accused of crime. The particular crime must be specified in the treaty. A pamphlet issued by the Department of the Secretary of State contains the treaty with the United States and a list of the countries with which treaties exist. The following offences occur in all treaties:—Murder, manslaughter when voluntary, counterfeiting, forgery, theft, false pretences, rape, burglary, housebreaking, arson and robbery. The treaties of course include other offences.

1. EXTRADITION FROM CANADA. (See R.S.C. 1927, c. 37). Before taking proceedings see that a treaty exists with the country making the application and that the crime is included in the treaty. In practice a sworn information is laid by a police officer or preferably by a consul of the foreign country before a Supreme Court or County Court Judge. A magistrate has no authority in extradition cases. The information may be based on a telegram from a diplomatic, or police authority stating the offence; that a warrant has been issued and that extradition will be demanded. A judge may however issue a warrant in Canada without a sworn information if the foreign warrant is produced before him. A form of warrant of arrest is to be found at the end of the Extradition Act, R.S.C. 1927, c. 37. When the accused is arrested he should at once be brought before the judge who issued it and the case adjourned from week to week until the documents in support of the application arrive. When the accused is taken into custody the foreign police should be notified forthwith and a request made to send the supporting documents. As foreign depositions are sometimes deficient in the matter of identification the police officer making the arrest should note carefully anything the accused may say which might indicate his identity with the proceedings in hand. The foreign government should appoint counsel to represent it at the hearing. When the depositions are received the judge has the accused brought before him and considers whether the depositions disclose a prima facie case; if the crime is within the treaty; if it is a crime in both countries; if the foreign law is proved by an expert; if the accused is sufficiently identified with the crime, and if the papers are properly authenticated:—If he so finds he commits the accused to prison and notifies the Minister of Justice at Ottawa. He also advises the accused he will not be returned until fifteen days have elapsed during which time he may apply for habeas corpus. The prisoner is kept in gaol until the agent from the foreign government arrives with a warrant of surrender issued by the Governor-General of Canada, authorizing such foreign officer to take the accused.

2. EXTRADITION TO CANADA. Police officers should not ask foreign police to arrest a fugitive unless the Attorney-General of the province has consented to institute extradition proceedings. If the case is urgent the Attorney-General will request the British Consul by code telegraph to have a provisional warrant issued for the arrest of the fugitive. This will prevent his release on habeas corpus, which might happen if the arrest is made by the foreign police at the request of local police. Questions to be considered are: (a) Is there a treaty with the country where the fugitive has gone, (b) is the offence included in the treaty, (c) is the fugitive subject to extradition (some countries will not extradite their own subjects or persons who are liable to the death penalty). The depositions of the witnesses are taken before a justice of the peace or magistrate and should be sufficient to obtain a committal for trial where the accused is held. Therefore it is better to put in too much evidence than too little. A picture and finger prints of the fugitive should form part of the evidence or record and should be marked as an exhibit and identified by witnesses. The evidence so taken is sent to the Attorney-General and certified by the Provincial Secretary or an officer of state; it is then authenticated by the Consul General of the country applied to who certifies that papers so prepared would be acceptable by tribunals in Canada in similar cases. The Minister of Justice is informed by the Attorney-General of the application and he ensures an application being made through diplomatic channels to the executive government of the foreign country for the surrender of the fugitive. If surrender is granted the warrant issued by the Secretary of State for Canada, called the Warrant of Recipias, names the police officers who are to act as escort, and the foreign government issues a warrant of surrender in duplicate. The officer who is to be the escort takes both copies of the warrant of surrender and the Canadian Warrant of Recipias with him, he produces both to the gaoler and leaves with him one copy of the warrant of surrender endorsed with a receipt for the body of the prisoner.

See "Fugitive offenders" and "Deportation."

FALSE ACCUSATION OF CRIME

See "Perjury, 5."

FALSE ENTRY IN GOVERNMENT ACCOUNTS

See "Forgery, 11."

FALSE IMPRISONMENT

There must be an actual detention and loss of freedom. If a constable act on a warrant, that is complete justification for anything he does within its provisions. If a police officer arrest the accused without a warrant for an offence upon which he may be arrested without a warrant, he may justify his action by pleading and proving that he had reasonable grounds for supposing that the accused had committed the crime. It has been held that the onus of proving lack of reasonable and probable cause lies upon the plaintiff.

See "Malicious Prosecution."

FALSE NEWS, SPREADING

See "Seditious Offences."

FALSE PRETENCES

1. Definition.
2. Obtaining goods or credit.
3. Obtaining execution of valuable security.
4. Pretending to inclose money.
5. False statements in writing.
6. Obtaining food and lodging.

There are four elements to this offence: (1) a false statement by word or conduct which presents as existing or as having happened something which does not exist or has not happened; (2) the offender must know that it is false; (3) the goods or money must have been parted with because of the false representation; (4) it must have been made with intent to defraud. Exaggeration is not a false pretence unless it comes under the above. A future promise to pay is not a false pretence.

2. OBTAINING GOODS OR CREDIT BY FALSE PRETENCES.

A.B., at , on , did obtain a sum of money, to wit (OR credit for the sum of $) *from one C.D. by false pretences and with intent to defraud, contrary to section 405( ) of the Criminal Code.*

Code, s. 405. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

3. OBTAINING EXECUTION OF VALUABLE SECURITY by false pretences with intent to defraud.

A.B., at , on , did with intent to defraud (OR *injure*) *C.D. did induce him to execute* (OR *make* OR *accept* OR *endorse* OR *destroy*) *a promissory note* (OR OTHER VALUABLE SECURITY STATING) *by false pretences contrary to section 406 (1) of the Criminal Code.*

Code, s. 406 (1). Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

Valuable security, see sec. 2 (43).

4. FALSELY PRETENDING TO INCLOSE MONEY OR VALUABLE SECURITY IN LETTER.

A.B., at , on , did wrongfully and with wilful falsehood pretend or allege that he did enclose and send (OR *cause to be enclosed and sent*) *in a post letter the sum of $* (OR *a valuable security,* STATING IT) *to one C.D., which in fact he did not so enclose or send* (OR *cause to be enclosed or sent*) *in the said letter contrary to section 407(1) of the Criminal Code.*

Code, s. 407 (1). Indictable.

WARRANT TO ARREST IS NECESSARY.

It is unnecessary to prove intent to defraud (sec. 846).

5. FALSE STATEMENTS IN WRITING respecting financial position or ability to pay of himself or any other person or corporation to obtain property, loan, credit or discount, or procuring any of the above benefits upon any such false statement.

A.B., at , on , did knowingly make (OR *cause to be made*) *a false statement in writing, to wit* (*a statement of assets and liabilities,* OR AS THE CASE MAY BE) *respecting his financial condition* (OR *means* OR *ability to pay*) *for the purpose of procuring from one C.D. the delivery of* (OR *a loan of $* OR *credit to the value of $* , OR AS THE CASE MAY BE) *contrary to section 407 (2) (a) of the Criminal Code.*

Code, s. 407 (2). Indictable.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Under sec. 863 it is not necessary to set out in detail in the information the false pretences or the fraudulent means. A post-dated cheque unless there is no account at the bank is only a future promise of payment and is not a false pretences, except under 407 (3). Where a false name has been signed to a cheque it has been held to be a false pretence. See definition of valuable security, Code, s. 2 (43). Evidence of similar acts may be given to prove the system used and to negative an allegation of mistake. Careful consideration is required in these cases that the alleged false pretence is not merely exaggerated commendation.

6. OBTAINING FOOD AND LODGING BY FALSE PRETENCES.

Code, s. 407 (3). Summary Conviction.

A.B., at , on , did obtain food and lodging (OR *food* OR *lodging*) *at , without making payment therefor with intent to defraud contrary to the Criminal Code, section 407 (3).*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Having false or pretended baggage, or secretly removing or attempting to remove baggage, or absconding from the premises, or making false statements to obtain credit or giving a worthless cheque is prima facie evidence of fraud (see section). To go to a restaurant and eat a meal, knowing that he cannot pay for it is an offence under this section.

FALSE REPRESENTATION

False representation that goods are manufactured for His Majesty, see "Advertising."

FELONY

The terms felony and misdemeanor are now abolished in our criminal procedure (Code, s. 14). Therefore it is unnecessary to consider their meaning, except possibly to say that the division of crimes into felony and misdemeanor was quite arbitrary and was not based on any scientific rule. It was supposed that the more serious crimes were called felonies, but some of the so-called misdemeanors were as serious as some of the felonies. Our offences are now known as indictable or summary conviction offences.

FIGHT

See "Prize-fight," and "Affray."

FINGER-PRINTS

See "Identification."

FIRE-ALARMS

Fire-alarms, damage to, see "Telegraph."

FIREARMS

See "Offensive Weapons."

FOOD UNFIT FOR HUMAN CONSUMPTION

Food unfit for human consumption, selling or having for sale, knowing it to be unfit for human food.

Code, s. 224. Indictable.

A.B., at , on , did knowingly and wilfully expose for sale (or *have in his possession with intent to sell*) *for human food certain articles, to wit:* (describe) *knowing it to be unfit for human food contrary to section 224 of the Criminal Code.*

Warrant to arrest is necessary.

Evidence.—The accused must be proved to have known the food unfit and this is generally done by the circumstances.

FORCE, COMPELLING EXECUTION OF DOCUMENTS

Force, compelling execution of documents by violence or restraint of some other person or by threats compels any person to make, endorse or sign any paper that it may be used as a valuable security, with intent to defraud.

Code, s. 450. Indictable.

A.B., at , on , did with intent to defraud (or *injure*) *and by means of unlawful violence,* describing (or *by means of restraining the person of one E.F.* or *by means of threats of violence* or *by means of threats that the person of one E.F. would be restrained*) *compel C.D. to execute* (or *make* or *accept* or *endorse* or as the case may be under the section) *a valuable security contrary to section 450 of the Criminal Code.*

Warrant to arrest is necessary.

Evidence.—See "Extortion by Threats." It has been held not to be robbery to compel another to sign a promissory note by means of threats of violence. This section now covers such a crime.

FORCIBLE ENTRY AND DETAINER

Forcible entry and detainer of land.

Code, s. 103. Indictable.

A.B., at , on , did forcibly and in a manner likely to cause a breach of the peace, or in a manner likely to cause reasonable apprehension of a breach of the peace, to wit (DESCRIBE THE FORCE USED) *enter on the land at , then in the actual and peaceable possession of C.D. contrary to section 103 of the Criminal Code;*

OR

A.B., at , on , was in actual possession without colour of right of certain land situate, lying and being , and known as Lot , Plan , and did detain it in a manner likely to cause a breach of the peace, or reasonable apprehension of a breach of the peace from one C.D., who was entitled by law to the possession of the said lands, by (DESCRIBE THE FORCE USED).

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Forcible entry is where a person whether entitled or not enters in a manner likely to cause a breach of the peace. Forcible detainer is where a person in possession without colour of right detains it in a similar manner.

FORGERY

1. Defined.
2. Uttering.
3. Forgery.
4. Bill paper.
5. Drawing documents without authority.
6. Demanding or obtaining by false document.
7. Destroying or making false entries of births, etc.
8. False certificate of births, etc.
9. False certificate of entries.
10. Official certifying false document.
11. False entry in Government accounts.
12. False dividend on Government bond, etc.

See also "COUNTERFEITING."

1. FORGERY is altering a document in any material part or making any material addition to it or adding a false date, seal or anything which is material or making any erasure, or obliteration, with intent that it be acted upon as genuine to the prejudice of some other person, or so that some person should do or refrain from doing anything upon the belief that it is genuine. Forgery is complete as soon as the document is made with intent as above (Code, 466).

2. UTTERING. Knowing a document to be forged uses, deals with or attempts to use, etc. It is immaterial where it was forged.

Code, s. 467. Indictable.

A.B., at , on , then knowing a certain document, to wit (DESCRIBE IT) *to be forged did unlawfully use, or deal with or act upon it* (OR *did cause* OR *did attempt to cause C.D. to use,* OR *deal with* OR *act upon it*) *as if it were genuine by* (STATE HOW IT WAS USED) *contrary to section 467 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—Prove that the document is forged and that the accused knew it, the latter is usually done by evidence from which it can be inferred, and that he used or attempted to have it acted upon as genuine.

3. FORGERY OF

(a) any document having impressed thereon or affixed thereto any public seal of the United Kingdom or any part thereof, or of Canada or any part thereof, or of any dominion, possession or colony of His Majesty; or,

(b) any document bearing the signature of the Governor-General, or of any administrator, or of any deputy of the Governor, or of any lieutenant-governor or any one at any time administering the government of any province of Canada; or,

(c) any document containing evidence of, or forming the title or any part of the title to, any land or hereditament, or to any interest in or to any charge upon any land or hereditament, or evidence of the creation, transfer or extinction of any such interest or charge; or,

(d) any entry in any register or book, or any memorial or other document made, issued, kept or lodged under any Act for or relating to the registering of deeds or other instruments respecting or concerning the title to or any claim upon any land or the recording or declaring of titles to land; or,

(e) any document required for the purpose of procuring the registering of any such deed or instrument or the recording or declaring of any such title; or,

(f) any document which is made, under any Act, evidence of the registering or recording or declaring of any such deed, instrument or title; or,

(g) any document which is made by any Act evidence affecting the title to land; or,

(h) any notarial act or document or authenticated copy, or any procès-verbal of a surveyor or authenticated copy thereof; or,

(i) any register of births, baptisms, marriages, deaths or burials authorized or required by law to be kept, or any certified copy of any entry in or extract from any such register; or,

(j) any copy of any such register required by law to be transmitted by or to any register or other officer; or,

(k) any will, codicil or other testamentary document, either of a dead or living person, or any probate or letters of administration, whether with or without the will annexed; or,

(l) any transfer or assignment of any share or interest in any stock, annuity or public fund of the United Kingdom or any part thereof, or of Canada or any part thereof, or of any dominion, possession or colony of His Majesty, or of any foreign state or country, or receipt or certificate for interest accruing thereon; or,

(m) any transfer or assignment of any share or interest in the debt of any public body, company or society, British, Canadian or foreign, or of any share or interest in the capital stock of any such company or society, or receipt or certificate for interest accruing thereon or,

(n) any transfer or assignment of any share or interest in any claim to a grant of land from the Crown, or to any scrip or other payment or allowance in lieu of any such grant of land; or,

(o) any power of attorney or other authority to transfer any interest or share hereinbefore mentioned, or to receive any dividend or money payable in respect of any such share or interest; or,

(p) any entry in any book or register, or any certificate, coupon, share, warrant or other document which by any law or any recognized practice is evidence of the title of any person to any such stock, interest or share, or to any dividend or interest payable in respect thereof; or,

(q) any exchequer bill or endorsement thereof or receipt or certificate for interest accruing thereon; or,

(r) any bank note or bill of exchange, promissory note or cheque, or any acceptance, endorsement or assignment thereof; or,

(s) any scrip in lieu of land; or,

(t) any document which is evidence of title to any portion of the debt of any dominion, colony or possession of His Majesty, or of any foreign state, or any transfer or assignment thereof; or,

(u) any deed, bond, debenture, or writing obligatory, or any warrant, order, or other security for money or payment of money, whether negotiable or not, or endorsement or assignment thereof; or,

(v) any accountable receipt or acknowledgment of the deposit, receipt, or delivery of money or goods, or endorsement or assignment thereof; or,

(w) any bill of lading, charter-party, policy of insurance, or any shipping document accompanying a bill of lading, or any endorsement or assignment thereof; or,

(x) any warehouse receipt, dock warrant, dock-keeper's certificate, delivery order, or warrant for the delivery of goods, or of any valuable thing, or any endorsement or assignment thereof; or,

(y) any other document used in the ordinary course of business as proof of the possession or control of goods, or as authorizing, either on endorsement or delivery, the possessor of such document to transfer or receive any goods.

Code, s. 468. Indictable.

OR,

(a) any entry or document made, issued, kept or lodged under any Act for or relating to the registry of any instrument respecting or concerning the title to, or any claim upon, any personal property; or,

(b) any public register or book not hereinbefore mentioned appointed by law to be made or kept, or any entry therein.

Code, s. 469. Indictable.

OR

(a) any record of any court of justice, or any document whatever belonging to or issuing from any court of justice, or being or forming part of any proceeding therein; or,

(b) any certificate, office copy, or certified copy or other document which, by any statute in force for the time being, is admissible in evidence; or,

(c) any document made or issued by any judge, officer or clerk of any court of justice, or any document upon which, by the law or usage at the time in force, any court of justice or any officer might act; or,

(d) any document which any magistrate is authorized or required by law to make or issue; or,

(e) any entry in any register or book kept, under the provisions of any law, in or under the authority of any court of justice or magistrate acting as such; or,

(f) any copy of any letters patent, or of the enrolment or enregistration of letters patent, or of any certificates thereof; or,

(g) any license or certificate for or of marriage; or,

(h) any contract or document which, either by itself or with others, amounts to a contract, or is evidence of a contract; or,

(i) any power or letter of attorney or mandate; or,

(j) any authority or request for the payment of money, or for the delivery of goods, or of any note, bill or valuable security; or,

(k) any acquittance or discharge, or any voucher of having received any goods, money, note, bill or valuable security, or any instrument which is evidence of any such receipt; or,

7 (l) any document to be given in evidence as a genuine document in any judicial proceeding; or,

(m) any ticket or order for a free or paid passage on any carriage, tramway or railway, or any steam or other vessel; or,

(n) any document not mentioned in this or the two last preceding sections.

Code, s. 470. Indictable.

A.B., at , on , did knowingly commit forgery of a certain document, to wit (DESCRIBE IT) *with the intention that it should be acted upon as genuine contrary to section* (INSERT PROPER SECTION AND SUBSECTION) *of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

Evidence.—Corroboration is necessary (sec. 1002). "False document" is defined in sec. 335 (l) and includes a document made on behalf of a person who did not authorize it; made on behalf of some person who does not exist, etc. It is unnecessary to prove that the document was used, as soon as the false document is made with intent that it be acted upon as genuine it is sufficient. The corroboration may be by comparison of the forged signature with the prisoner's admitted writing. The forged instrument must be produced and given in evidence. It has been held that altering the figures on a cheque without altering the writing in the body of the cheque is not forgery because the figures are not an essential part. Filling in a blank cheque without authority, to which a signature is attached, is forgery. The intent necessary is an intent that the document shall be acted upon as genuine to some one's prejudice. The signature on the forged cheque may be proved to be the prisoner's writing by any one acquainted with his handwriting or may be compared with his genuine writing by an expert. (Evidence Act, R.S.C. chap. 59, sec. 8.)

4. Exchequer bill paper, etc. Having, making or using any machinery for making exchequer bill paper, revenue paper or bank bill paper or paper intended to resemble it; or engraves or makes any thing apparently intended to resemble any part of an exchequer bill or bank note; or has any plate or material or paper any bond used by any state or body corporate.

Code, s. 471. Indictable.

Information as above inserting proper wording from a clause in sec. 471—and words "without lawful authority or excuse."

Warrant to arrest is not required.

Evidence.—Corroboration is not essential under this section. "Exchequer bill" defined in section 335(j), "exchequer bill paper" section 335(k). Produce the paper alleged to have been forged and prove it to be false or counterfeit by the evidence of some person versed in such matters. A banker would be acceptable. The onus is upon the accused to show lawful authority or excuse.

5. Drawing document without authority with intent to defraud or signs in the name of any person, or knowingly utters or uses such document.

Code, s. 477. Indictable.

A.B., at , on , did with intent to defraud make (or *execute* or *accept*) *a certain document to wit:—a promissory note on the account of C.D. contrary to section 477 of the Criminal Code.*

OR

did with intent to defraud make use of (or *utter*) *a certain promissory note drawn on the account of C.D. knowing the same to be made without the authority of the said C.D. contrary to section 477, etc.*

Warrant to arrest is necessary.

Evidence.—"Document" is defined in section 335(h). Corroboration is not necessary. See Evidence under heading 2.

6. Obtaining by forged document for himself or to be delivered to any other person, or by forged probate, etc.

Code, s. 478. Indictable.

A.B., at , on , did demand (or *receive* or *cause to be procured*) *from one C.D. a sum of money to wit, dollars under and by virtue of a certain forged order alleged to have been signed by one E.F. knowing the same to be forged* (or *by virtue of what purported to be the Probate of the Last Will and Testament of G.H.: knowing the said probate to be forged* or as the case may be) *contrary to section 478 of the Criminal Code.*

Warrant to arrest is not required.

7. Destroying or making false entries in vital statistics.—Unlawfully injuring any record of births, marriages, deaths, etc., required to be kept by law; or inserting in such any false entry or making erasures.

Code, s. 480. Indictable.

Warrant to arrest is not required.

8. False certified copies of vital statistics, knowing it to be false; or conceals any register or permits to be concealed.

Code, s. 481. Indictable.

Warrant to arrest is necessary.

9. False certificate that entry made, in registers of vital statistics or documents in custody of court; or signing certificate as officer having custody of documents without authority.

Code, s. 482. Indictable.

Warrant to arrest is necessary.

10. Official certifying false copy of document to be a true copy, or not being such official certifies any document as if he had authority.

Code, s. 483. Indictable.

11. False entry in government accounts or any alteration in such books or in any bank books kept for the Government; or transfers any stock, annuity or interest in any public fund, transferable at any bank to any person other than the owner.

Code, s. 484. Indictable.

Warrant to arrest is necessary.

12. False dividend on government bond, etc., by an employee of the Government, dominion or provincial, or of any bank where transfer books are kept, with intent to defraud by making the dividend or interest less or greater than what it should be.

Code, s. 485. Indictable.

Warrant to arrest is necessary.

See also "Counterfeiting."

FORTUNE TELLING

See "Witchcraft."

FRAUD

1. Officer destroying books.
2. False statement by officer.
3. Clerk destroying books.
4. Fraud on creditors.
5. Falsifying books with intent to defraud creditors.
6. Fraudulent sale of property.
7. Fraudulent mortgage of property.
8. Fraudulent seizure in Quebec.
9. By warehouseman.

See "False Pretences."

1. Director or officer of a company destroying, altering, etc., any books or writing, or makes or concurs in any false entry or omission in books of the company.

Code, s. 413. Indictable.

A.B., at , on , being a director (or *manager*) *of a body corporate known as company did with intent to defraud, falsify* (or *destroy* or *alter* or *mutilate*) *a certain book* (or *writing* or *valuable security*) *belonging to the said company* (or *make a false entry* or *concur in making* or *omitting to enter material particulars in a certain book*) (set out the book, etc., and the entry) *contrary to section 413 of the Criminal Code.*

Warrant to arrest is necessary.

2. False prospectus or statement of account by a promoter or officer with intent to deceive or defraud any shareholder or creditor.

Code, s. 414. Indictable.

Warrant to arrest is necessary.

3. By clerk or servant as in No. 1.

Code, s. 415. Indictable.

Warrant to arrest is necessary.

4. Defrauding creditors, by making a gift or conveyance of his property; or concealing his property; or being the receiver of such property; or being indebted to the extent of $1,000 or more and unable to pay his creditors has not kept books of account.

Code, s. 417. Indictable.

Warrant to arrest is necessary.

5. Destroying or falsifying books or papers with intent to defraud his creditors.

Code, s. 418. Indictable.

Warrant to arrest is necessary.

6. Fraudulent sales of property by making a subsequent sale knowing the existence of any unregistered prior sale, mortgage or encumbrance.

Code, s. 421. Indictable.

Warrant to arrest is necessary.

7. Fraudulent mortgage of property by mortgaging real property to which he knows he has no title.

Code, s. 422. Indictable.

Warrant to arrest is necessary.

8. Fraudulent seizure of real property in the Province of Quebec, by taking in execution, property which to the knowledge of the person causing the same to be taken is not the property of the person against whom execution is issued.

Code, s. 423. Indictable.

Warrant to arrest is necessary.

9. Fraud by warehouseman, etc., by giving a receipt for goods which he has not received, with intent to mislead, deceive or defraud; or wilfully accepting or using such false receipt.

Code, s. 425. Indictable.

A.B., at , on , being the keeper (or *a clerk* or *other person in the employ of C.D. the keeper*) *of a warehouse* (or *miller* or *master of a vessel,* or proprietor of any of the places mentioned in the section) *did knowingly and wilfully give to one E.F. a writing purporting to be a receipt for certain goods or property, to wit* (describe the goods) *as having been received by him in his warehouse* (or as the case may be) *before the said goods or property had been received by him as aforesaid with intent to mislead* (or *deceive* or *injure* or *defraud*) *one E.F.* (or *some person then unknown*)*, contrary to the Criminal Code section 425(a).*

or

A.B., at , on , did knowingly and wilfully receive from C.D. the keeper of a warehouse (or as in the above) *a paper writing purporting to be (as in above) contrary to the Criminal Code, section 425(b).*

Warrant to arrest is necessary.

Evidence.—The intent to deceive or defraud, etc., must be proved, or be a matter of clear inference from facts.

FRAUDULENTLY DISPOSING OF GOODS

Fraudulently disposing of goods on which money has been advanced with intent to deceive, defraud or injure consignee.

Code, s. 426. Indictable.

Warrant to arrest is necessary.

FRAUD, MAILING CIRCULAR

Fraud, mailing circular containing scheme to defraud the public, see "Obscene books and pictures, 2."

FRAUDS UPON THE GOVERNMENT

See "Bribery and corruption, 3."

FRAUDULENTLY TAKING CATTLE OR TIMBER

See "THEFT."

FRAUDULENT RECEIPT

FRAUDULENT RECEIPT, using by wilfully making any false statement in a receipt, etc., for goods or property which can be used under the Bank Act; or having by himself, clerk or agent, given, endorsed or assigned such receipt to any bank or person, afterwards without consent alienates or part with or does not deliver to the receipt holder, the goods covered by the receipt.

Code, s. 427. Indictable.

WARRANT TO ARREST IS NECESSARY.

Information the same as in "FRAUD, 9."

FUGITIVE OFFENDERS

1. Return to Canada. 2. Return from Canada.

This term is applied to persons who are charged with an offence in Canada and have escaped to any part of the British Empire, or to a person charged in any part of the Empire who has escaped to Canada. The return of such person is obtained under the Fugitive Offenders Act. An application for return may be made in the case of any offence punishable with imprisonment for twelve months or more, or any greater punishment.

1. RETURN TO CANADA. The application for return is made through the Attorney-General of the Province. He is the proper authority to request the arrest. The Crown Attorney should furnish him with details of the case in order that he may decide if the case is a proper one.

2. RETURN FROM CANADA. The offence charged need not be an offence in Canada as long as it is an offence in the British dominion making the application (R.S.C. 1927, c. 81, s. 4). The fugitive may be arrested in Canada on an endorsed warrant or on a provisional warrant.

(a) An endorsed warrant is the warrant issued in that part of the British Empire where the offence was committed and which is endorsed by the Governor-General or by a judge of a Superior Court. He must be satisfied that such warrant was issued by some person having authority to issue the same (s. 8).

(b) A provisional warrant is a warrant issued in Canada at the request of some part of the British Empire. Such provisional warrant may be issued by a justice of the peace or magistrate or any person having authority to issue warrants of arrest (s. 9). It is usual to lay an information setting forth the request received, and showing a reasonable suspicion that an offence has been committed and that the accused is the guilty party.

The accused when arrested is taken before a justice of the peace or magistrate. When the evidence or depositions are received the magistrate considers them and if he finds strong probable presumption that the fugitive committed the offence, he commits him to prison to await an escort to take him back where the offence was committed. If the accused was arrested on a provisional warrant, the warrant issued where the offence was committed and which accompanies the papers must be endorsed by a judge of a superior court before the hearing.

If a warrant has been endorsed for the arrest of a fugitive any justice or magistrate may issue a search warrant (s. 19).

See "EXTRADITION" regarding fugitives from or in foreign countries.

FURIOUS DRIVING

See "CRIMINAL NEGLIGENCE."

GAMING HOUSES

See "DISORDERLY HOUSES, 2."

GAMING

1. Gaming in stocks.
2. Broker reducing stock by selling for own account.
3. Gaming in public conveyance.
4. Conductor permitting gaming.
5. Book-making, etc.
6. Lotteries:

Betting houses—see "DISORDERLY HOUSES."

Three-card monte, see "CHEATING."

1. GAMING IN STOCKS, by contracting to sell or purchase stocks without the bona fide intention of doing so, with intent to make a profit in the rise or fall of the market.

Code, s. 231. Indictable.

Frequenting is punishable under section 233.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The keeper of an office where the above transactions are carried on is guilty of keeping a disorderly house under section 232 (see section 229). These places are called "Bucket-shops." The operation is usually as follows:—a client requests the broker to buy certain stocks, the broker accepts the order and bills the client for the amount although the stock is not actually bought. If the price drops the client is advised that he has been sold out and the broker keeps the money. If the price advances the broker will of course have to pay. Onus is on the accused to show intention to purchase, section 987.

2. BROKER REDUCING STOCK by selling for his own account so as to reduce the number of shares in his hands below the number he should have on hand for all customers.

Code, s. 231A (1930). Indictable.

WARRANT TO ARREST IS NECESSARY.

3. GAMING IN PUBLIC CONVEYANCE, that is a railway car or steamboat by any means and obtaining any valuable security, money, etc.; or attempting to obtain by engaging in gambling.

Code, s. 234. Indictable.

A.B., at , on , in a railway car of the C.N. Ry. used as a public conveyance for passengers did obtain from one C.D. by means of dice the sum of ten dollars contrary to section 234(a) of the Criminal Code.

WARRANT TO ARREST IS NECESSARY.

4. CONDUCTOR, master or superior officer in charge of railway car or steamboat neglecting to arrest and charge persons gambling.

Code, s. 234(2 and 3). Summary conviction.

A.B., at , on , being the conductor (OR *master* OR *superior officer*) *in charge of a railway train* (OR *steamboat*) *on* (*name the line*) *did neglect to arrest and charge persons who were gambling therein by means of cards* (OR *dice* OR *name the form of gambling*) *he well knowing that they were gambling contrary to the Criminal Code, section 234*(*3*).

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—Prove that the accused knew that the gambling was occurring: prove the gambling by the form of game and that money, or property was passing: that accused was the conductor or officer. Failure to post up notices in railways and steamboats forbidding gaming carries a penalty, but this is not an offence punishable by indictment or summary conviction but by suit brought in His Majesty's name in a civil court (Code, s. 1038).

5. BETTING, POOL-SELLING AND BOOK-MAKING, using any premises for; imports, sells, rents, keeps, etc., any machine for recording bets or any gambling device; or becomes custodian for any bet; or sells any pool; engages in the business of betting or pool-selling; publishes information to assist in betting or pool-selling on any race or contest; or imports into Canada matter to assist in gambling upon any race or event which is not an ordinary newspaper or magazine; or invites anyone to bet on any contest; or sends or receives any telegraph or mail relating to book-making, etc.

Code, s. 235. Indictable.

A.B., at , on , did unlawfully use (OR *knowingly allow to be used*) *certain premises under his control* (DESCRIBE WHERE) *for the purpose of recording or registering any bet* (OR *wager* OR *selling pools upon the result of a horse race at* ; OR *did unlawfully become custodian or repository of a sum of money staked upon the result of a horse race at* , (OR INSERT ANY OF THE OTHER OFFENCES UNDER THE SECTION) *contrary to section 235( ) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Search warrant under section 641 and form of order for search, see "SEARCH, 6." This section does not apply to money bet at a race meeting where betting may lawfully be carried on under subsection 2. Automatic gambling machines should be proceeded against under the "BETTING HOUSE" section 229. See section 986. Evidence of persons found in, section 642.

6. LOTTERIES, making, printing, advertising, etc., or causing to be made, etc., any scheme for lending, giving, selling or disposing of any property by any mode of chance; or selling tickets or chances therein; or conducting any such scheme; or disposing of goods by chance or mixed chance and skill where the competitor pays anything; or inducing anyone to hazard anything on any dice-game, shell game, punch board, coin table, or wheel of fortune.

Code, s. 236(1). Indictable.

Purchasing such lot or ticket.

Code, s. 236(2). Summary conviction.

A.B., at , on , did advertise a proposal OR *plan for disposing of property to wit* (DESCRIBE) *by lots, cards, tickets* (OR DESCRIBE THE MODE) *contrary to section 236(a) of the Criminal Code.*

OR

did sell a certain lot (OR *card* OR *ticket*) *for disposing of certain property, to wit* (DESCRIBE) *by lots* (OR DESCRIBE THE MODE OF CHANCE) *contrary to section 236(b) of the Criminal Code.*

OR

did conduct a certain scheme for determining the holders of what tickets (OR *lots* OR *numbers*) *are the winners of certain property, to wit* (DESCRIBE) *disposed of by lot* (OR *chance* OR DESCRIBE) *contrary to section 236(c) of the Criminal Code.*

OR

did dispose of certain goods, wares OR *merchandise, to wit* (DESCRIBE) *by a mode of mixed chance and skill, to wit (describe the mode employed) in which the contestant paid money* (OR OTHER VALUABLE CONSIDERATION *describing*) *for the privilege of participating in such contest contrary to section 236(d) of the Criminal Code.*

OR

did induce one C.D. to stake OR *hazard the sum of dollars* (OR *a valuable consideration to wit (describe)) upon the result of a dice game* (OR *shell game* OR *punch board* OR *coin table, etc.*) *contrary to section 236(e) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The section does not apply to games of mixed chance and skill at an agricultural fair or exhibition during the actual operation of the annual fair on the grounds provided the game is not a dice game, shell game, punch board or coin table. It does apply to games of pure chance however (see Proviso at end of section 236(1)). It does not apply to a division by chance among bona fide joint owners of property or raffles for prizes that have first been offered for sale and none of which exceed $50 in value at a bazaar for a charitable or religious object if permission is first obtained from the mayor or reeve. See other exceptions subsection 6. You will notice two distinct kinds of lotteries, (1) those of chance in which no element of skill enters and where it is unnecessary to prove that any money has been paid, and (2) those of mixed chance and skill to dispose of goods, wares or merchandise in which the contestant pays money. Under No. 2 it would appear that a money prize is not covered because money is not "goods, wares or merchandise." It has been held that guessing the number of grains of wheat in a jar is a game of mixed chance and skill. The sale of punch-boards by a wholesale dealer is an offence under section 236(b). Search for lottery tickets, etc., section 641, and evidence of persons found in, section 642.

See also "TRADING STAMPS."

GOODS

Injury to goods in railway, or ship or warehouse. See "INJURY."

GOVERNMENT APPOINTMENT

Buying or selling. See "BRIBERY AND CORRUPTION, 6 and 7."

GOVERNMENT BONDS

False dividends, see "FORGERY, 12."

GOVERNMENT SECURITY—ADVERTISING IN IMITATION OF

See "ADVERTISING."

GOVERNMENT STORES

See "MARINE STORES," and "MILITARY STORES."

GRIEVOUS BODILY HARM

See "ASSAULT" and "CRIMINAL NEGLIGENCE."

GUARDS FOR PRISONERS

A police officer has not authority to hire extra guards for prisoners in hospitals, etc. He should have the prisoner remanded by getting the magistrate to go to the hospital. The sheriff is then responsible for guarding him and has power and authority to hire guards for the purpose. In cases where it is inevitable he should make the best possible arrangement and then telegraph his superior officer for authority to continue the arrangement and for instructions.

HARBOUR

Removing natural bar necessary for a public harbour.

Code, s. 527. Summary conviction.

A.B., at , on , did wilfully remove material forming a natural bar necessary to the existence of the public harbour without the permission of the Minister of Marine and Fisheries contrary to the Criminal Code, section 527.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The burden of proving that he has the permission from the Minister of Marine and Fisheries lies on the accused.

HIGH-GRADING

See "MINING."

HOLES

HOLES—LEAVING HOLES IN ICE ON ANY NAVIGABLE OR OPEN WATER UNGUARDED; having abandoned mine uninclosed, or omits within five days of conviction to guard the same.

Code, s. 287. Summary conviction.

A.B., at , on , did cut or make (OR *cause to be cut or made*) *a hole* (OR *opening* OR *place*) *of sufficient size to endanger human life through the ice on certain water then open and frequented by the public, to wit (designate the place) and did leave such hole while in a state dangerous to human life uninclosed and unguarded by a guard of sufficient height and* *strength to prevent any person falling therein, contrary to the Criminal Code, section 287(a),* OR,

A.B., at , on , being the owner (OR *manager* OR *superintendent) of an unused mine* (OR *quarry) at (describe the place) with an excavation of sufficient area and depth to endanger human life, did leave the same unguarded and unenclosed by a guard of sufficient height and strength to prevent any person from accidentally riding, driving, walking or falling therein contrary to the Criminal Code, section 287(b).*

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—If a person accidentally fall into such hole and is killed the person whose duty it was to guard the hole is guilty of manslaughter.

HOMICIDE

1. Murder.
2. Attempted murder.
3. Threats to murder.
4. Counselling and conspiracy.
5. Accessory after the fact.
6. Manslaughter.
7. Neglect in childbirth.
8. Concealment of birth.
9. Killing an unborn child.

1. MURDER, is culpable homicide with malice aforethought. Code, s. 263. Indictable.

A.B., at , on , did murder C.D. contrary to section 263 of the Criminal Code.

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—Death must occur within a year and a day reckoned from the last unlawful act, section 254. Homicide is murder if, the accused meant to cause death, if he meant to cause bodily injury and is reckless whether death ensues or not; if he means to cause death or bodily injury as above and by accident kills another person, if he for an unlawful object does any act which he knows or ought to have known to be likely to cause death, section 259. A child becomes a human being when it has completely proceeded alive from the body of its mother, section 251. A conviction for assault in any degree is not a bar to a murder charge if the victim afterward dies. Prove death and manner of death by doctor who did autopsy and that it was within a year and a day; by whom it was caused; that it was by the felonious act of the accused. Do not overprove any case, it is sometimes as fatal as underproof and much more common. If someone sees the accused stab the deceased it is unnecessary to prove by expert evidence that the stain on the knife is human blood, or if he sees the accused shoot the deceased it is overproving to obtain evidence by a ballistic expert that the bullet in the body was fired out of the gun which the accused had. See "INVESTIGATIONS."

2. ATTEMPT TO MURDER.
Code, s. 264. Indictable.

A.B., at , on , did administer (OR *cause to be administered) to C.D. a certain poison, to wit (describe) with intent to murder the said C.D. contrary to section 264(a) of the Criminal Code.*

OR

did wound (OR *cause grievous bodily harm) with intent to murder one C.D. contrary to section 264(b).*

OR

did with a certain loaded arm to wit (describe) shoot at (OR *attempt to discharge the same) at C.D. with intent to murder the said C.D. contrary to section 264(c).*

OR

did attempt to drown (OR *suffocate* OR *strangle) C.D. with intent to murder the said C.D. contrary to section 264(d).*

OR

did attempt to murder C.D. by (DESCRIBE THE MEANS USED, EITHER THOSE SET OUT IN CLAUSES *(e)* TO *(f)* OR IN ANY OTHER MANNER) *contrary to, etc.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—Loaded arm is defined, section 2(20). There must be some evidence of the intention to murder to warrant conviction. If in resisting lawful arrest an accused shoots and wounds an officer, it is submitted this is attempted murder because should the officer die it would be murder whether the accused means to cause death or not. The intention to murder will of course be inferred in some instances, such as giving a dose of strychnine.

3. THREATS TO MURDER.—Sending, delivering or uttering, or causing to be received, knowing the contents thereof any letter or writing threatening to kill or murder any person.

Code, s. 265. Indictable.

A.B., at , on , did send, (OR *deliver* OR *utter* OR *cause to be received*) *knowing the contents thereof, to one C.D. a letter* (OR *writing*) *threatening to kill* (OR *murder*) *the said C.D. contrary to section 265 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Produce the letter or writing and prove that it is in the handwriting of the accused or was delivered by him or left where he knew the complainant would get it. "Writing" is defined in section 2(45) to include any mode in which and any material on which, words or figures, whether at length or abridged, are written, printed or otherwise expressed, or any map or plan is inscribed. If the threats are verbal only the person making such threats may be bound over to keep the peace, see "BINDING OVER."

4. COUNSELLING AND CONSPIRACY TO MURDER.

Code, s. 266. Indictable.

A.B., and C.D., at , on , with other parties unknown conspire and agree together to murder one E.F. (OR *cause E.F. to be murdered*) *contrary to section 266(a) of the Criminal Code.*

OR

A.B., at , on , did counsel (OR *attempt to procure*) *C.D. to murder E.F. contrary to section 266(b) of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—In conspiracy the person to be murdered need not reside in His Majesty's Dominions. If the murder is actually committed the conspirators or counsellors are guilty of murder.

5. ACCESSORY AFTER THE FACT TO MURDER.

Code, s. 267. Indictable.

A.B., at , on , knowing that one C.D. did murder E.F. he the said A.B. did receive (OR *comfort* OR *assist*) *the said C.D. in order to enable the said C.D. to escape contrary to section 267 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—See section 71 and heading "ACCESSORIES AFTER THE FACT."

6. MANSLAUGHTER, is culpable homicide which does not amount to murder.

Code, s. 268. Indictable.

A.B., at , on , did kill and slay C.D. contrary to section 268 of the Criminal Code.

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—Death must take place within a year and a day, section 254(1). The slayer must not have meant to cause death; if he meant to cause bodily injury the injury intended must not be such that he should have known to be likely to cause death; or it must not have been inflicted to facilitate the commission of a crime mentioned in section 260 or to escape arrest. However the real test in most cases is the intention to cause death. If in doing an illegal act death follows as one of the natural consequences, although it was not intended, this is murder. A conviction for assault is not a bar to a charge of manslaughter where the victim subsequently dies. In automobile fatalities disclosing negligence the proper charge is manslaughter where someone has been killed. See sections 250-262.

7. Neglect in childbirth to provide reasonable assistance for herself, where the child is permanently injured or dies, if she intended that the child should die, or to conceal the fact of her having had a child.

Code, s. 271. Indictable.

A.B., at , on , being then with child and about to be delivered thereof did neglect to provide reasonable assistance in her delivery, whereby the child of which she was then delivered was permanently injured (or *died*), *the intent of such neglect being that the child should not live* (or *to conceal the fact of the said A.B. having had a child*) *contrary to section 271( ) of the Criminal Code.*

Warrant to arrest is necessary.

Evidence.—If the child is dead, death must be proved to have taken place just before or during or shortly after birth. The section covers neglect only, not active steps to kill the child; this is murder.

8. Concealment of birth, by disposing of the dead body of a child which died before, during or after birth.

Code, s. 272. Indictable.

A.B., at , on , with intent to conceal the fact that the said A.B. (or *one C.D.*) *had been delivered of a child did unlawfully dispose of the dead body of the said child of which the said had been delivered, by placing it in a privy* (or as the case may be) *contrary to section 272 of the Criminal Code.*

Warrant to arrest is necessary.

Evidence.—It is immaterial whether the child is born dead or alive. On a charge of child murder the jury may convict under this section (section 952). A dead body must be found and identified as having been born to the woman charged. Mere denial of birth is not enough there must be proof of an act to dispose of the body.

9. Killing an unborn child in such a manner that he would be guilty of murder if the child had been born.

Code, s. 306. Indictable.

Warrant to arrest is necessary.

Evidence.—It is not an offence if the act is necessary to preserve the life of the mother.

HOUSE BREAKING

See "Burglary."

ICE

Having holes unguarded, see "Holes."

IDENTIFICATION

Any person charged with or convicted of an indictable offence may be photographed and finger printed, and such force may be used as is necessary to accomplish this purpose. (Identification of Criminals Act, R.S.C. 1927, c. 38.) The process of finger-printing has been added by the Governor in Council as provided by the Act. There is a Central Bureau of Identification at Ottawa in connection with the Royal Canadian Mounted Police where finger-prints are classified and indexed. Finger-prints are now accepted in court as identification.

The apparatus required for taking finger-prints is as follows:

A small sheet of tin, copper or glass; a printer's roller and some printer's ink. The sheet of tin, copper or glass and roller should be cleaned each time it is used.

To take an impression: Squeeze a drop of ink on the plate and roll it thin with the roller; take the little finger, roll the end of the finger on the ink and roll it again in the space marked for that finger on the card; do the same with each of the fingers and thumbs.

Finger-prints that are invisible to the naked eye or even with a magnifying glass can often be shown up by a 1-10 solution of nitrate of silver washed over the surface and placed in the sunlight for a short time. This should only be attempted by an expert. Impressions of finger-prints found at the scene of a crime should be photographed; if this cannot be done the article upon which the finger-print appears should be seized even though it be a door or a window to be taken away. The finger-print should be protected so that it will not be rubbed.

Foot-prints, tire-prints, etc. Marks at the scene of a crime should be preserved. The best method is a plaster of paris cast. The mould should be carefully prepared; small stones, earth, etc., which may have fallen should be carefully detached, and any water removed with blotting paper. Shellac in alcohol may be employed to harden the mould. A throat-spray may be used with advantage for this purpose. A mixture of oil and tallow should next be sprayed over the mould to ensure that the plaster of paris will not stick. If the print is in mud it is not necessary to oil or harden it. The plaster of paris will readily come away if the mould is wet. Care should be taken in mixing the plaster and water so that it will not be lumpy. String, first soaked in water should be put in the mould with the plaster, to hold it together when it hardens, or if desired a few small pieces of wood may be placed in the wet plaster, to add strength to the cast. Wax may be used, or cement, or glue. Melted glue is the best method for prints in snow: made thinner than usual it is allowed to cool and then a thin layer poured over the print. The cold of the snow will absorb the heat of the glue before the snow melts.

In some cases the print itself may be dug up wholly and preserved.

IMPERSONATION

1. To obtain property.
2. Of constable.
3. Of candidate at examination.
4. Of owner of stock, etc.
5. Surety for bail, deeds, etc.

1. With intent fraudulently to obtain any property, personates any person living or dead, or the administrator, wife, widow or next of kin or relation of any person.

Code, s. 408. Indictable.

A.B., at , on , did fraudulently personate one C.D. with intent to obtain from one E.F. the sum of $ (or state the property) *wages owing by the said E.F. to C.D.* (or as the case may be) *contrary to section 408 of the Criminal Code.*

Warrant to arrest is necessary.

Evidence.—Property is defined in sec. 2 (31). By sec. 863 an information is not insufficient because it does not set out in detail the fraudulent means.

2. Impersonation of constable. Falsely pretending to be a constable or making use of badge or other articles of equipment.

Code, s. 169. Summary Conviction.

A.B., at , on , did falsely represent himself to C.D. to be a constable (or *did use a badge or handcuffs in such a manner as to lead C.D. to believe that he was a constable*).

Warrant to arrest is necessary.

Evidence.—Prove that accused represented himself as a constable by word of mouth or by conduct and that he had no authority. The conduct might be the giving of orders or the showing of badge or handcuffs, etc.

3. Impersonation of a candidate at any examination held under any statute or in connection with any university or college, or avails himself of result of such personation.

Code, s. 409. Indictable or Summary Conviction at Crown's option.

A.B., at , on , falsely and with intent to gain an advantage for himself (OR *for one C.D.*) *did personate E.F.* (OR *the said C.D.*) *a candidate at an examination held at , contrary to the Criminal Code, section 409.*

WARRANT TO ARREST IS NECESSARY.

4. IMPERSONATION OF OWNER OF STOCK, COUPON, ETC, or any person authorized by power of attorney to transfer such stock, etc., and thereby transfers or endeavors to obtain any money due thereon.

Code, s. 410. Indictable.

A.B., at , on , did falsely and deceitfully personate C.D., the owner of a certain share of stock, to wit (DESCRIBE)[1] *transferable at the office of the , and did thereby transfer* (OR *endeavor to transfer*) *the share and interest of the said C.D. as if he, the said A.B., were the lawful owner thereof contrary to section 410 of the Criminal Code.*

OR[1] *and did thereby obtain* (OR *endeavor to obtain*) *at the office of the said company the sum of $ due to the said C.D. as owner of the said share* (OR *coupon,* OR *certificate* OR AS THE CASE MAY BE) *as if he the said A.B. were the lawful owner thereof contrary to section 410 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—Prove the ownership of the stock, etc., and that accused represented himself as C.D. the owner in having it transferred or obtaining the money. If he signed an endorsement in so doing the offence is forgery, but it is often hard to prove the accused's handwriting.

5. IMPERSONATING SURETY FOR BAIL, OR IN JUDGMENTS, ETC., or any deed or other instrument.

Code, s. 411. Indictable.

A.B., at , on , did without lawful authority or excuse acknowledge a recognizance in the name of C.D. (OR *consent to judgment in the action in the court styled E.F. vs. C.D.* OR *acknowledge a deed to lot No. , plan , Town of , County of , between E.F. and C.D.*) *contrary to section 411 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Prove the document and that the signature is that of the defendant. Proof of lawful authority lies upon him.

IMPORTING GOODS LIABLE TO SEIZURE

IMPORTING GOODS LIABLE TO SEIZURE or foreign goods containing trade mark of any manufacturer in United Kingdom or Canada unless there is indication where the goods were made.

Code, s. 493. Summary Conviction.

Goods are liable to seizure.

WARRANT TO ARREST IS NECESSARY.

INCEST

Incest is the offence of parent and child, brother and sister, or grandparent and grandchild having sexual intercourse with each other knowing of such relationship.

Code, s. 204. Indictable.

A.B. and one C.D., at , on , and at divers times since that date being brother and sister (OR *parent and child* OR *grandparent and grandchild*) *did have sexual intercourse with each other, the said A.B. being then aware of their consanguinity and did thereby commit incest contrary to section 204 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The accused must know of the relationship. It has been held that "brother" includes half-brother. The relationship may be proved by oral evidence or by certificates of birth coupled with evidence of identification. If the female is a consenting party she is an accomplice and her evidence should be corroborated. See "EVIDENCE."

INDECENT ACT

Indecent act in public place in presence of any person, or in any place intending to offend any person.

Code, s. 205. Summary conviction.

A.B., at , *on* , *wilfully in the presence of one or more persons did an indecent act* (DESCRIBE IT) *at* , *a place to which the public have* (OR *are permitted to have*) *access,* (OR *at* , *intending thereby to insult or offend C.D.*) *contrary to the Criminal Code, section 205* (*a* OR *b*).

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Indecently exposing the person is an offence under this section. See sections 207(b), 238(c). Under subsection (a) the offence must have occurred in a place to which the public is permitted access; under subsection (b) it may have occurred any place if done with the intention of offending. The offence must be committed wilfully.

INDECENT EXHIBITIONS

See "VAGRANCY."

INDECENCY, GROSS—IN PUBLIC OR PRIVATE

Commits or is a party to, or procures or attempts to procure the commission by any male person of any act of gross indecency with another male person.

Code, s. 206. Indictable.

A.B., at , *on* , *a male person did commit an act of gross indecency with C.D. another male person contrary to section 206 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—There does not appear to be any specific definition of the offence. Usually the offence consists of taking the private parts into the mouth, but any other form of gross indecency between males, not specially provided for is an offence under this section. The other male person, if consenting to the offence, will be an accomplice and his evidence should be corroborated. See "EVIDENCE."

INDECENT THEATRE PERFORMANCE

Lessee, agent or manager permitting obscene, immoral or indecent performance.

Code, s. 208. Indictable or summary conviction at the Crown's option.

A.B., at , *on* , *being the lessee* (OR *agent* OR *person in charge*) *of a theatre known as* , *situated at* , *in the said town, did give* (OR *allow to be presented* OR *given*) *therein an immoral* (OR *indecent or obscene*) *play* (OR *concert* OR *performance*) *contrary to the Criminal Code, section 208.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Obscene is defined as "offensive to modesty" expressing or suggesting unchaste or lustful ideas, impure, indecent, lewd.

2. Every person who appears in any capacity in such play is guilty of an offence.

Code, s. 208(2). Summary conviction.

A.B., at , *on* , *did appear as an actor* (OR *state capacity*) *in a certain immoral* (OR *indecent* OR *obscene*) *play in the* *theatre at* , *in the said town, contrary to the Criminal Code, section 208(2).*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—This charge should accompany one against the manager for allowing the performance.

3. Appearing in indecent costume.

Code, s. 208(3). Summary conviction.

CHARGE.—*Add to information in 2* "and did appear in an indecent costume" contrary to the Criminal Code, section 208(3).

WARRANT TO ARREST IS NECESSARY.

See sections 205, 237(b), 238(c), also heading "OBSCENE BOOKS AND PICTURES."

INDIANS

Incites or stirs up three or more Indians, non-treaty or half-breeds acting together to make any requests of the Government agent in a riotous or disorderly manner or to do any act calculated to cause a breach of the peace.

Code, s. 109. Indictable.

A.B., at , on , did induce (OR *incite or stir up*) *three Indians* (OR *non-treaty Indians or half-breeds*) *to demand from one E.F., the Indian Agent at Reserve* (*describe the demand*) *in a riotous* (OR *disorderly* OR *threatening*) *manner contrary to section 109(a) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

2. Inciting any Indian to commit an indictable offence.

Code, s. 110. Indictable.

A.B., at , on , did incite one C.D., an Indian, to commit the indictable offence of theft (OR AS THE CASE MAY BE) *contrary to section 110 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

INDIAN ACT

INDIAN ACT, R.S.C. 1927, Chap. 98. Indians are amenable to the Criminal Code for offences whether committed on or off the reserve. Some of the offences under this Act are: Hunting or living upon a reserve without authority, sec. 115; refusing to

remove from reserve on demand by Indian agent, chief, etc., sec. 116; trespassing or cutting timber or removing minerals, etc., from reserve without authority, sec. 118; trading with Indians without license, sec. 122; buying or acquiring presents given to Indians or non-treaty Indians without written consent of Superintendent-General, sec. 124; sells or supplies to an Indian or non-treaty Indian any intoxicating liquor; or has liquor in his possession in the house or abode of an Indian or non-treaty Indian; sells or supplies liquor to any person on a reserve, sec. 126; the commander or person in charge of any boat from which any liquor has been sold or supplied to any Indian or non-treaty Indian, sec. 127. Every Indian or non-treaty Indian who manufactures any liquor or who has any such liquor or gives any such liquor to another Indian or non-treaty Indian, sec. 127. Drunk or gambling on a reserve, sec. 130(2).

Summary conviction.

A.B., at , on , not being an Indian of the band and not having the authority of the Superintendent-General of Indian Affairs did reside (OR *hunt*) *upon the reserve belonging to* (*describe the band of Indians*) *at , contrary to section 115 of the Indian Act.*

OR

A.B., at , on , sell (OR *barter* OR *attempt to give* OR *connived in giving*) *or give to one C.D., an Indian* (OR *non-treaty Indian* OR *who follows the Indian mode of life*) *intoxicating liquor,*

OR

did have intoxicating liquor in his possession in a house (*tent, wigwam or place of abode*) *of one C.D., an Indian* (OR *a non-treaty Indian*) *on the Indian Reserve at ,*

OR

did sell (OR *barter* OR *supply* OR *give*) *to one C.D., intoxicating liquor on the Indian Reserve at . contrary to the Indian Act. section 126, clause .*

Arrest without a warrant may be made if any person or Indian is found gambling or drunk or with liquor in his possession on any part of a reserve and may detain him until he can be brought before a justice, secs. 130. 136.

Evidence.—Half the penalty belongs to the informant, sec. 31(4). The certificate of analysis of a Dominion or provincial analyst is prima facie evidence of the alcoholic or narcotic contents of any sample, sec. 137(2). The evidence of an Indian destitute of the knowledge of God may be received on his solemn affirmation to tell the truth, sec. 143. Indian means, any male of Indian blood reputed to belong to a particular band; any child of such person; any woman married to such person. Non-treaty Indian means any person of Indian blood who is reputed to belong to an irregular band or who follows the Indian mode of life. Person in the Act does not include Indians. An Indian agent has power to try offences, sec. 152. It is not essential for the accused to have known that the purchaser of liquor was an Indian. The Act does not cover half-breeds, unless they belong to a band.

INDIAN WOMAN

The keeper of any house, tent, etc., allowing any unenfranchised Indian woman to be there with intent to prostitute herself; or being an Indian woman prostitutes herself therein or is found in a disorderly house.

Code, s. 220. Indictable.

A.B., at , on , being the keeper of house No. Street, did allow one C.D., an unenfranchised Indian woman to remain therein knowing (or *having probable cause for believing) that the said C.D. intended to prostitute herself therein, contrary to section 220(a) of the Criminal Code.*

Warrant to arrest is necessary.

Evidence.—Corroboration is required (sec. 1002). Offences committed on the reserve are punishable under the Code. Any person who appears or behaves as master or mistress of the house is deemed to be the keeper (sec. 220(2)).

INDICTABLE OFFENCES

Offences are divided into indictable offences and summary conviction offences. The division is quite arbitrary. The section defining the crime declares whether an offence is one or the other. The fact that an offence is tried before a magistrate summarily does not make that offence a summary conviction offence, unless it is declared so to be in the section defining it. Magistrates have power to try with the consent of accused, a number of indictable offences.

INDICTMENT

An indictment is a written accusation against a person charged with a crime. The accusation, called a Bill is presented to the Grand Jury; they hear evidence and if a "prima facie" case is made out, mark the Bill "True Bill." When so marked the Bill is an indictment. If there is not sufficient evidence the Bill is marked "No Bill" and the case ends there.

INFORMATION

See "Complaint" and "Criminal information."

INFORMATION—UNLAWFUL COMMUNICATION

Unlawful communication of official information, see "Spying."

INJURY TO CATTLE

See "Animals," "Threats to injure cattle" and "Mischief."

INJURY TO BOOM, DAM OR PIER

Injury to boom, dam, pier or any chain, etc., or who impedes any channel for the passage of timber.

Code, s. 525. Indictable.

A.B., at , on , did wilfully and without legal justification or excuse and without colour of right[1] *break* (OR *injure* OR *cut* OR *loosen* OR *remove* OR *destroy*) *a dam* (OR *pier* OR *slide* OR *boom* OR AS THE CASE MAY BE) *the property of C.D., in the river, contrary to section 525(a) of the Criminal Code.*

OR

[1] *impede* (OR *block up*) *a channel in the river intended for the transmission of timber, contrary to section 525(b), etc.*

Warrant to arrest is not required.

Evidence.—See definition of wilfully under "Arson."

INJURY TO FENCES, WALLS, ETC

Injury to fences, walls, etc., wilfully destroys or damages any wall, fence, stile or gate or boundary post or stake.

Code, s. 530. Summary conviction.

A.B., at , on , did wilfully destroy (OR *injure*) *a wall* (OR *stile* OR *gate* OR *a part of one*, OR *post planted* (*describe where*) *to mark the boundary line between x and y*) *the property of C.D., contrary to section 530 of the Criminal Code.*

Warrant to arrest is necessary.

INJURY TO PLANTS OR ROOTS

Injury to plants or roots, etc., used for food or commercially growing in a place not being a garden, etc., with intent to destroy.

Code, s. 535. Summary conviction.

A.B., at , on , did wilfully and without justification or excuse and without colour of right destroy (OR *damage with intent to destroy*) *certain plants in , not being a garden, orchard or nursery, contrary to the provisions of the Criminal Code, section 535.*

Warrant to arrest is necessary.

Evidence.—It must be done without legal justification or excuse and without colour of right. A partial interest in the thing injured shall not be a defence, nor shall it be an excuse if he owns the thing entirely, if done with intent to defraud (sec. 541).

INJURIES TO TREES

Injuries to trees, shrubs, etc.

Code, s. 533. Summary conviction, 3rd offence indictable.

A.B., at , on , did wilfully and without justification or excuse and without colour of right destroy (OR *damage*) *a tree* (OR *sapling* OR *shrub*) *growing at , such injury being to the amount of dollars, contrary to the Criminal Code, section 533.*

Warrant to arrest is necessary.

Evidence.—See Injury to plants, roots, etc. (Code, s. 541). It does not matter where the tree is growing but of course a person may destroy his own trees. If a person is reckless of the consequences of his act it is assumed to be a wilful act. The injury must be at least to the value of twenty-five cents.

See also "Mischief."

INJURY TO VEGETABLES

Injury to vegetable production growing in any garden, orchard, nursery, ground, house, hot-house, etc.

Code, s. 534. Summary conviction, 2nd offence is indictable.

Sample information as in injury to plants, etc.

Warrant to arrest is necessary.

Evidence.—As in injury to plants, roots, etc.

INJURY OR DESTRUCTION OF GOODS IN RAILWAY STATION

Injury or destruction of goods in railway station or building or in warehouse, ship, with intent to steal or otherwise unlawfully obtain them.

Code, s. 519. Summary conviction.

Warrant to arrest is necessary.

INQUESTS

An inquest should be held in all cases where the death of the deceased may have been caused by negligence or design. If death is caused by suicide it may be necessary to hold an inquest to determine what caused the deceased to take his own life; it may have been caused by ill-treatment or by some outside influence working on his mind. The Coroner after investigating may in his discretion hold an inquest and in most provinces the Attorney-General may order one to be held. If a Coroner issues his warrant to hold an inquest, he gives to the constable a warrant to take possession of the body and the warrant to hold an inquest. He will instruct the constable to summon a jury. The number in the different provinces is as follows:

Alberta, six chosen from those liable to serve as common jurors.

B.C., six jurors whose verdict must be unanimous.

Manitoba, not fewer than ten nor more than sixteen from the municipal voters' list of those eligible to vote on money by-laws.

Ontario, not fewer than seven nor more than twelve from municipal voters' list of those marked as eligible for jury duty. A verdict may be found by a majority.

N.B., not fewer than seven nor more than thirteen duly qualified as petit jurors.

N.S., not fewer than twelve nor more than twenty-three. They must agree on the verdict.

Quebec, six persons chosen by the Coroner from the leading persons of the place. They may be summoned verbally.

Sask., six persons who must agree to the verdict.

INSURANCE OFFENCES

1. Carrying on insurance business except when licensed.
Code, s. 507. Indictable.

2. Permitting discrimination between persons of same class.

3. Making agreement except as expressed in policy.

4. Rebating premiums.

5. Offering bonds, stock, etc., as an inducement, or receiving rebate, etc.

6. Director or officer of company consenting to above.

Code, s. 508. Summary conviction or penalties may be sued for.

WARRANT TO ARREST IS REQUIRED.

It is submitted that a police officer should not initiate proceedings in these cases. Permit an interested person to do so. Limitation is 1 year.

INTIMIDATION

INTIMIDATION, unlawfully, with a view to compelling any person to abstain from doing what he has a right to do, or to do anything from which he has a legal right to abstain; uses violence to person or property, threatens violence, persistently follows a person, hides tools or property, with other persons follows a person in a disorderly manner, or besets or watches his house or place of business.

Code, s. 501. Indictable or summary conviction at the option of the accused.

A.B., at , on , with a view to compel C.D. to (describe) used violence to the person of C.D. by assaulting him with a stick (OR *describe what was done) contrary to the Criminal Code, section 501.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The above offences are usually committed at the time of strike. Proof that a strike exists will supply a motive for the accused's actions.

2. Assaults or threatens violence to prevent strike breaker from working.

Code, s. 502(1). Indictable.

A.B., at , on , pursuant to a conspiracy to raise the rate of wages in a certain trade, to wit (state the trade) did make an assault upon (OR *use violence* OR *threaten violence*) *to C.D., to prevent him from working at such trade, contrary to the Criminal Code, section 502(1).*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Proof of the combination or conspiracy is necessary, and that A.B. made the assault, etc., pursuant to the conspiracy.

3. Assaults or uses violence or threats to prevent buying, selling or disposing of grain or produce, or to prevent the conveyance of same, or to prevent seaman, etc., from exercising his calling.

Code, s. 502(2). Summary conviction.

Information as in 1.

WARRANT TO ARREST IS NECESSARY.

4. Hindering or preventing by intimidation or illegal combination, any person bidding upon any auction of public land.

Code, s. 503. Indictable.

INTOXICATING LIQUOR

See "LIQUOR."

INVESTIGATIONS

It is at investigations where a police officer has the fullest scope for his talents and ingenuity. Having adopted a theory do not hesitate for a moment to discard it if some fact is discovered which makes it untenable. Too many police officers, having adopted a theory and loath to discard it build their facts and adjust them around that theory instead of building the theory on the discovered facts. Copious notes should be taken both of the officer's own observations and statements by those able to give information. Take statements of what they know, not what someone has told them. Never alter the position of, or touch any objects before it has been minutely described in the report. In cases of theft, house-breaking, etc., do not loose sight of the possibility of an "inside" job, but do not start with that supposition. Finger-prints should be looked for (see heading "IDENTIFICATION"). In cases of murder touch nothing until photographs from several angles are taken and then survey the scene carefully before approaching the body. Foot-prints should be protected with coverings of boxes, traces of blood should likewise be protected. If a senior officer is coming later do not move or touch anything until he arrives. The solution of many crimes has been definitely made impossible by an unthinking police officer walking over the scene and handling objects. In conjunction with the Coroner a most careful examination should be made. The condition of the clothing, or the finger-nails of the deceased might contain a valuable clue if there has been a struggle; powder marks on the clothes and underclothes might tell what kind of a weapon was used, whether powder or cordite was the explosive; the position of the body, and the place where the bullet is lodged might tell approximately where the murderer was standing; in knife wounds it is almost impossible for a right-handed person to make certain stabs, examine the direction of the wound and determine whether the knife was wielded by a left or right-handed person. The smallest object should be noted, a cigar holder found near a corpse led to the murderer because of the teeth marks on it. Measurements should be taken and a sketch made of the scene. The medico-legal expert can assist the investigation a great deal. He can tell whether marks are human blood; whether two drops of blood are the same kind; how long since the deceased has eaten and quite often what he had; how long he has been dead; what caused death; whether wounds were made after death; in rape cases he can tell whether stains are or are not made by male semen. The analyst can tell what poison was used. The ballistic expert can often tell whether a bullet found in a body was or was not fired from a particular gun.

Hair may also give valuable information, for instance hair found in the hands of a murdered man may tell the expert, that the suspect is a young man turning grey, black hair, recently cut and of robust constitution; he may tell what part of the body the hair comes from.

JURIES

1. Grand Jury.
2. Petit Jury.
3. Coroner's Jury.

In criminal cases there are two kinds of juries, the grand jury and the petit (petty) jury. The Criminal Code, section 921 adopts the laws of the various provinces regarding the selection and qualifications of jurors.

1. Grand jury. The number to compose this jury is fixed by provincial law. In Ontario the number is thirteen (R.S.O. Chap. 96, s. 44, ss. 2). It is summoned at the General or Quarter Session of the Peace and at the Assizes for the purpose of considering the Bills of Indictments placed before it. A Bill of Indictment is an accusation of crime and the grand jury hears the witnesses for the prosecution on oath. If a majority of the grand jurors, not less than twelve, or in cases where the jury consists of only thirteen members, then of seven of them think there is sufficient evidence to put the accused on trial they mark the Bill "True Bill," if there is not sufficient evidence they mark it "No Bill." The Bills of Indictment are returned to the court. After having dealt with all Bills the grand jury is discharged. Grand jurors also inspect public institutions and report upon the management and condition.

2. Petit jury. This jury consists of twelve persons who are the judges of fact in all trials by jury. Either the accused or the Crown may challenge the array on the ground of partiality, fraud or wilful misconduct on the part of the officer by whom the panel was returned. The array is the whole list of jurors summoned by the sheriff. The court appoints two persons to try whether this is true. Persons charged with treason or with any offence punishable with death are entitled to challenge twenty jurors peremptorily, i.e., without giving a cause; if the crime charged carries imprisonment for five years or more, he may challenge twelve jurors peremptorily; in other cases he may challenge four peremptorily (Code, s. 932). The accused and the Crown may also challenge for cause: (a) that the name is not on its panel; (b) that the juror is biased; (c) that the juror has been convicted and sentenced to twelve months' imprisonment, or to any term with hard labour; (d) that the juror is an alien (Code, s. 935). The Crown may challenge four jurors peremptorily or may cause any number (not exceeding forty-eight) to stand aside until all the jurors have been called who are available. The Petit jury must be unanimous in its verdict. If there is a disagreement the case is tried again. Usually after two disagreements the Attorney-General enters a stay of proceedings, called a Nolle Prosequi.

3. Coroner's jury. This jury is differently constituted in each province, both as to number and the quorum which may find a verdict, see "Inquests."

JURISDICTION

See "Trial, place of."

JURORS, CORRUPTING

See "Bribery or corrupting juror or witness."

JUSTICE, ATTEMPTING TO DEFEAT

See "Bribery or corrupting witness."

JUVENILES

There are two procedures in connection with juveniles: (1) Where the Juvenile Delinquents Act is not in force, and (2) where the said has been brought into force by proclamation. Under No. 1 the procedure is the same as in the case of adults in so far as the information is concerned, but there are special provisions regarding place of confinement (Prisoners and Reformatories Act, R.S.C. chap. 163, s. 29) and the mode of trial (Code, ss. 644, 783, 802). Under No. 2, after proclamation in the Canada Gazette bringing the Juvenile Delinquents Act into force the offences are tried by a Juvenile Court Judge and the offence with which the child is charged may be laid either as a criminal offence or as an offence against a provincial statute, if one exists. The age of juveniles is defined as persons under the age of sixteen years, this may be increased to eighteen years by proclamation.

KIDNAPPING

See "Assault, 11."

KNIVES

See "Offensive weapons."

LAND

Land, forcible entry or detainer, see "Forcible."

LATIN AND FRENCH TERMS

A fortiori.—Much more; with stronger reason.

Ab initio.—From the beginning.

Animus furandi.—The intention of stealing.

Autrefois acquit.—Formerly acquitted.

Autrefois convict.—Formerly convicted.

Bona fide.—In good faith.

Bona vacantia.—Goods in which no one claims an ownership and therefore belong to the King.

Capias ad satisfaciendum or *ca. sa.*—A writ to arrest in a civil case.

Capias.—"That you take" a warrant to arrest issued in civil proceedings.

Certiorari.—A writ directed to an inferior court to send the papers to a High Court to inquire into the validity of a conviction.

De medietate linguae.—A jury one-half aliens.

De ventre inspiciendo.—A writ to examine whether a woman is pregnant.

Distringas.—A writ to enforce appearance to plead to an indictment, etc.

Ex parte.—An application made in the absence of one of the parties.

Ex post facto.—"By a subsequent Act." An Act that is not retroactive is Ex post facto law.

Ex officio.—By virtue of his office.

Fieri facias or *Fi. Fa.*—"Cause to be made." A writ of execution to levy on goods and chattels.

Fieri feci.—A return to a writ of Fi. Fa. that the sum has been levied.

Fiat.—"Let it be done"—leave to take proceedings.

Functus officio.—Having discharged his duty.

Habeas Corpus.—"Have the body." A writ issued to bring up the body of the prisoner. The production of the body before the Court is usually now dispensed with by the accused. This is the writ "Habeas Corpus ad subjiciendum"; to show cause why he is detained. Officers served must return the warrant to the Court. "Habeas Corpus ad testificandum," to testify in Court.

Inter alia.—Among other things.

Mala in se.—Acts which are wrong in themselves, such as murder.

Mala prohibita.—Acts merely prohibited by law.

Mandamus.—A writ to compel the performance of a duty.

Mens rea.—(Actus non facit reum, nisi mens sit rea). "The act does not constitute guilt unless done with guilty intent"—guilty mind.

Mutatis mutandis.—After the necessary changes.

Nisi prius.—"Unless before that day" a trial at nisi prius is a trial by jury before a single judge. Formerly actions were tried at bar, i.e., before a full court of several judges. Jurors were required to attend on a certain day "unless before that day" (nisi prius) the judge arrived.

Nolle prosequi.—A stay of proceedings that may be filed by the Attorney-General.

Nunc pro tunc.—"Now for then."

Nulla bona.—No goods.

Obiter dictum.—An observation by a judge in his judgment that is not binding as a precedent.

Onus probandi.—The onus of proof.

Per se.—By itself.

Prima facie.—Prima facie evidence is evidence which is sufficiently strong to establish the case and can be overthrown only by evidence in rebuttal.

Qui tam.—Penal actions brought for penalties by one who sues for himself as well as the King.

Quo warranto.—"By what authority." A writ by the Crown against one who usurps office or liberty or franchise.

Res gestae.—Facts so connected with the issue as to explain it. Evidence of words used may be admitted if they form part of the res gestae although otherwise be inadmissible as heresay.

Res judicata.—A thing adjudicated, a finished case.

Similiter.—In like manner; set form of words used to signify acceptance of something tendered by opponent.

Sine die.—"Without a day" being named.

Toties quoties.—As often as occasion arises.

Voire dire.—The preliminary examination of a witness by a judge. If he appears incompetent on the examination, he is rejected.

LETTERS CALCULATED TO ALARM OR INJURE

See "Telegrams."

LIBEL, BLASPHEMOUS

Libel, blasphemous, consists of attacking Christianity in a vulgar, profane or indecent manner; in such a way that it offends against public decency; in vilifying Christ, the Holy Ghost, the Bible. It may be spoken or written. It is not blasphemous libel to attack Christianity by means of sane argument in an attempt to prove its falsity.

Code, s. 198. Indictable.

A.B., at , on , did publish a blasphemous libel as follows (here set out the exact words) contrary to section 198 of the Criminal Code.

Warrant to arrest is necessary.

LIMITATION

There is no time limit within which proceedings must be taken for most criminal offences. The following however is a list of sections of the Criminal Code, in which there is a time limit (see sec. 1140 and sections following). If a warrant is issued it remains in force until executed.

3 years—Sections 74, 78. Except killing His Majesty, or where the overt act alleged is an attempt to injure the person of His Majesty.

Part VII. Offences relating to the fraudulent marking of merchandise.

Any offence relating to or arising out of the location of land which was paid for in whole or in part by scrip or was granted upon certificate issued to half-breeds in connection with the extinguishment of Indian titles.

2 years—Sections 158, 161, and 311. All actions (i.e. not prosecutions) for recovery of penalties.

1 year—Sections 92, 126, 127, 128, 211, 212, 213, 215(1), 216, 217, 507, (s. 507(3)).

6 months—Sections 99(1, 2, 3 and 4), 115, 183(d). All summary conviction cases unless set out below. (In N.W.T. and Yukon the limitation for summary conviction cases is one year.)

3 months—Sections 542, 543, 544, 545.

1 month—Sections 116, 118 to 124 inclusive.

6 days—Sections 74 or 78, by open and advised speaking.

Under provincial statutes the limit is usually six months but the statute creating the offence often fixes a limit of three months or less.

LIQUORS

1. Conveying on board His Majesty's ships, or selling to any seaman on such ships, or hovering around such ship for that purpose.

Code, s. 141. Summary conviction.

2. Sale of liquor in any area after it has been prohibited by proclamation of the Governor-in-Council under Part III of the Code.

Code, s. 151. Summary conviction.

3. Obtaining carriage of liquor by false or misleading billings or labels into a place where importation is contrary to law.

Code, s. 412(3). Summary conviction.

A.B., at   , on   , by means of false billings (OR *labels* OR *false statements of the contents of any car* OR *false address*) *did knowingly obtain* (OR *attempt to obtain*) *the carriage by the Canadian Pacific Railway Company, of intoxicating liquor into the Province of Manitoba, where the importation of liquor is contrary to law, contrary to the provisions of the Criminal Code, section 412(3).*

EVIDENCE.—It must be done knowingly. The courts will probably take judicial notice of the prohibition statutes of another province, but the laws of a foreign country must be proved by expert evidence. A foreign lawyer or the Consul might give this evidence. The liquor must be proved to be intoxicating liquor within the Code, sec. 2(18) i.e., to contain more than two and one-half per cent. of proof spirits.

4. Damaging anything containing liquor on any railway or in warehouse, or unlawfully drinks or spills or wastes the same.

Code, s. 519. Summary conviction.

WARRANT TO ARREST IS REQUIRED IN EVERY CASE.

(See also the various PROVINCIAL LIQUOR ACTS.)

LORD'S DAY ACT

LORD'S DAY ACT, R.S.C. 1927, chap. 123. This Act prohibits any person from doing the business of his ordinary calling. It includes corporations. It prohibits public games or contests for gain; any performance where a fee is charged; shooting near a place of public worship; sale or distribution of foreign newspapers.

Works of mercy or necessity are exempted and some of them are set out in section 11.

Provincial Legislatures have power to pass Acts permitting certain things now prohibited by this Act, to be done on Sunday.

Summary conviction.

The consent of the Attorney-General is necessary before proceeding (s. 16). Sixty days is the time limit for laying the charge.

A.B., at , *on Sunday* , *1931, did sell* (OR *offer for sale*) SET OUT WHAT OR STATE WHAT WAS DONE *contrary to the Lord's Day Act, R.S.C. 1927, section* .

EVIDENCE.—Ice cream may be sold by a restaurant-keeper to be eaten in the premises and not taken away. The sale of cigarettes is not lawful on Sunday. Sunday is from twelve midnight Saturday until twelve midnight on Sunday.

ONTARIO.—In Ontario there is also in force the Act passed before Confederation known as "an Act to prevent the profanation of the Lord's Day." It is printed on page 2962 of the Revised Statutes *1914*. It is not a Provincial Act because the provinces have no power to pass Sunday prohibitory legislation. This Act does not require the Attorney-General's consent. It does not apply to corporations, nor to persons who are not tradesmen, artificers, mechanics or persons of that kind.

LOTTERIES

See "GAMING, 6."

MALICIOUS DAMAGE

MALICIOUS DAMAGE to property, see "DAMAGE" and "MISCHIEF."

MALICIOUS PROSECUTION

This action lies against the prosecutor. The plaintiff must prove he is innocent; that there was want of reasonable and probable cause for the prosecution; that the action was initiated in a malicious spirit, that is, from an improper and indirect motive and not in the interests of justice. The honesty of the belief of the defendant is not a defence unless he had reasonable and probable cause for believing the plaintiff guilty. It is not necessary for the plaintiff to prove arrest and detention (see FALSE IMPRISONMENT). It will be seen, therefore, that the laying of informations upon mere suspicion will lay the plaintiff open to a charge of malicious prosecution. Suspicion against the accused should be accompanied by reasonable and probable cause to believe that he committed the offence, before the information is laid. Reasonable suspicion of guilt might come from hearsay, but the hearsay should be from a credible and known source. It has been held that where the informant has acted on the advice of Crown Counsel, he cannot be held responsible for the mistakes made by that officer, such a course disproving malice. Where a constable has been asked to swear to an information by a private party, and is not satisfied that there is good grounds to believe the accused to be guilty, he should advise the private party to lay the charge himself, unless the Crown Attorney advise him differently.

See "FALSE IMPRISONMENT."

MANSLAUGHTER

See "HOMICIDE, 5."

MAN-TRAP

See "TRAPS."

MANUFACTURING EVIDENCE

See "PERJURY, 4."

MARINE STORES

1. Dealer in marine stores purchasing from one under the age of sixteen.

2. Receiving marine stores after dark.

3. Dealer having for sale chains, log-booms, etc., bearing trade-mark without written consent of owner.

Code, s. 431(1, 2 and 4). Summary conviction.

4. Dealer having marine stores which have been stolen secreted on his premises.

Code, s. 431(2). Indictable.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Marine stores include anchors, cables, sails, junk, iron, copper, brass, lead, etc.

5. Applying government mark on any public stores without authority or obliterating the mark from government stores.

Code, s. 433. Indictable.

WARRANT TO ARREST IS NECESSARY.

Government marks are described in s. 432.

MARRIAGE

1. Bigamy.
2. Feigned marriage.
3. Polygamy.
4. Unlawful solemnization.
5. Contrary to law.

1. BIGAMY is the act of a person who is married, going through a form of marriage with any other person or marrying a person whom he or she knows to be married.

Code, s. 309(1). Indictable.

A.B., at , on , being then already married (OR *knowing her to be then married*) *did go through a form of marriage with C.D., and did thereby commit bigamy contrary to section 309(1) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The first marriage must be strictly proved by witnesses who were present at it. Prove that the other spouse to that marriage was living when the second ceremony was performed. If it took place in a foreign country some evidence should be produced that the first marriage was in accordance with the laws of that country. The admission of the accused that he was married before and that the first spouse is living should

not be relied upon. In any case it is an admission of mixed law and fact and it is only fact that an accused may admit against himself. He cannot be convicted on such an admission. See definition, sec. 308. If a person leaves Canada with the intention of committing bigamy in a foreign country he may be prosecuted here for the offence. If a spouse has been continually absent for seven years and the other party is not proved to have known that such spouse was alive during that time, a second marriage is not bigamy. The last marriage is not valid however if the first spouse is in fact alive when it is performed and if there are any children they are illegitimate. Death or divorce only can end marriage.

2. FEIGNED MARRIAGE between himself and any woman or who assists in procuring.

Code, s. 309(2). Indictable.

A.B., at , on , did procure a feigned and pretended marriage to be performed between himself and C.D., a woman (OR *did assist E.F. in procuring a feigned and pretended marriage between the said E.F., a man and C.D., a woman*) *contrary to section 309(2) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Corroboration is necessary (sec. 1002) and prove that the ceremony was not in fact a valid ceremony and that the accused knew it to be so and procured it.

3. POLYGAMY, that is plural marriage or who by any ceremony or form of rite, sect, society, etc., lives with more than one spouse in a conjugal union or spiritual marriage, or who takes part in any such ceremony.

Code, s. 310. Indictable.

A.B., a male person, and C.D. and E.F., females, at , on , and at divers other times before and since that date did practice (OR *agree and consent to practice*) *polygamy to-*

gether (OR *did by mutual consent enter into a form of polygamy together*) *contrary to section 310* (*ss.*) *of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Mere cohabitation is not sufficient, it must be proved to be cohabitation under form of conjugal union recognizing plurality of marriage. The section is aimed at Mormanism. See sec. 948.

4. UNLAWFUL SOLEMNIZATION OF MARRIAGE by person without authority or pretending to solemnize; or procuring any unauthorized person to perform a marriage.

Code, s. 311. Indictable.

A.B., at , *on* , *without lawful authority did unlawfully solemnize* (OR *pretend to solemnize*) *a marriage between C.D. and E.F., contrary to section 311(a) of the Criminal Code.*

OR

A.B., at *on* , *then knowing that C.D. was not lawfully authorized to solemnize a marriage, did procure the said C.D. to unlawfully solemnize a marriage between E.F. and G.H., contrary to section 311(b) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The various provinces have power under the B.N. Act to legislate on the question of solemnization. It is necessary therefore to look at provincial law to see who may perform a valid marriage. Limitation is 2 years.

5. MARRIAGE CONTRARY TO LAW by a person authorized to perform marriage.

Code, s. 312. Indictable.

A.B., at , *on* , *a clergyman having lawful authority to solemnize marriages did solemnize a marriage between C.D. and E.F. wilfully and knowingly in violation of the laws of the Province of* , *to wit, by solemnizing the same without publication of banns and without any license* (OR *as the case may be*) *as required by section* , *of the Marriage Act of the said province. contrary to section 312 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

MILITARY DECORATIONS

MILITARY DECORATIONS or false discharges.

See "DECORATIONS."

MILITARY STORES

Knowingly sells or causes to be sold to His Majesty any defective military or naval stores or who commits any act of dishonesty, fraud or deception in such sale.

Code, s. 436. Indictable.

WARRANT TO ARREST IS NECESSARY.

MINES

MINES, leaving abandoned mine or quarry unguarded, see "HOLES."

MINES, OBSTRUCTING

MINES, OBSTRUCTING, with intent to injure a mine, oil or gas well or obstruct the working, causes water, earth, etc., to be conveyed into it; or damages any shaft or passage, or any apparatus, building, bridge or road; or hinders the working thereof.

Code, s. 520. Indictable.

A.B., at , *on* , *did without legal justification or excuse and without colour of right cause a stream of water* (OR AS THE CASE MAY BE) *to be conveyed into the* (NAME) *mine the property of the* *Mining Company, with intent to injure the said mine or obstruct the working thereof, contrary to section 520(a) of the Criminal Code.* (INSERT THE CHARGE UNDER ANY OF THE OTHER CLAUSES.)

WARRANT TO ARREST IS NOT REQUIRED.

MINING

Being the holder of a mining lease who defrauds or attempts to defraud the Government or any person of any gold, etc., or makes false statement of the amount procured; or without authority of the owner sells or purchases ore; or purchases any ore, except from the owner of the mine and neglects to file within ten days an instrument in the office of the County Court Clerk showing the name and address of the person from whom he purchased the ore and the quality, quantity and value (the above does not apply in Yukon); or has in his possession any ore of a value of 25c a lb. (in the case of mica, 7c a lb.), which there is reasonable ground to believe is stolen or dealt with contrary to the above or cannot or refuses to prove his right to the possession.

Code, s. 424. Indictable.

Warrant to arrest is necessary.

Evidence.—The illegal possession of ore is known as "High-grading" and the prosecution may be commenced only on the information of a manager or director of a mining company or by his authority or the authority of the Attorney-General of the province or by the owner of a mine who deposes that he believes the ore was stolen from his mine, sec. 424 (5).

MISCHIEF

Mischief is the offence of wilfully destroying or damaging any property, real or personal, including houses, boats, sea walls, bridges, cattle, signals, fisheries, trees, etc., to the extent of five dollars, letter-boxes, mailable matter, etc.

Code, s. 510. Indictable.

A.B., at , *on* , *did wilfully without legal justification or excuse and without colour of right destroy* (OR *damage*) *a dwelling-house by causing an explosion which endangered the life of persons therein and did thereby commit the offence of mischief contrary to section 510 (a) (i) of the Criminal Code.* (OTHER OFFENCES MAY BE INSERTED BY FOLLOWING THE WORDS OF THE CLAUSE.)

Warrant to arrest is not required.

Evidence.—"Wilfully," defined in sec. 509, means everyone who causes any event by an act which he knew would probably cause it, being reckless whether such event happens or not, is deemed to have caused it wilfully. Damage to property not provided for under the above, see sec. 539. The damage must be done without legal justification or excuse, sec. 541. Prove that accused caused the damage in the manner charged; that it was done wilfully; that prima facie he had no right to do it. He may show as a defence legal justification or excuse or colour of right.

MISDEMEANOR

This term is abolished. See "Felony" for explanation of the term.

MISPRISION OF FELONY

See "Accessory After the Fact."

MUNICIPAL CORRUPTION

See "Bribery, 5."

MURDER

See "Homicide, 1."

NON-SUPPORT

Failure to provide necessities to wife or family if they are in necessitous circumstances.

Code, s. 242 (3). Indictable or Summary Conviction at Crown's option.

A.B., at , *on* , *being the husband of C.D.* (OR *the father* OR *the guardian of C.D.*) *and under a legal obligation so to do, did neglect to supply the said C.D. with necessities, the said C.D. being in necessitous circumstances, contrary to the Criminal Code. section 242(3).*

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—Evidence that accused has cohabited with a woman, or that he has recognized children as his children is *prima facie* evidence of the fact (subsection 4). Evidence that accused has been away for at least one month is *prima facie* evidence of failure to provide necessities. It is necessary to prove necessitous circumstances. The fact that some charity is providing necessities is not a defence; or that the family is maintained by the parents of the wife. Where age of a child must be proved it may be done under section 984 (if a regular certificate cannot be produced). The judge or jury (if there is one) may infer age from appearance (s. 984 (2)).

2. NEGLECT TO PROVIDE necessities to wife or to child under sixteen by parents or master under a legal duty to do so, causing danger to health and life.

Code, s. 244. Indictable.

A.B., on , *at* , *and on divers other days and times before and since that date, being the father* (OR *guardian* OR *master*) *of C.D., a child under the age of sixteen years and a member of the said A.B.'s household, and he the said A.B. being under a legal duty so to do, did without lawful excuse refuse* (OR *neglect*) *to provide necessaries, to wit: food* (OR *clothing for the said C.D., whereby the life of the said C.D. was endangered* (OR *the health of the said C.D. was likely to be permanently injured*) *contrary to section 244 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Under the above section it is necessary to prove that life is endangered or that health is likely to be permanently injured. If death is caused the offence may be murder or manslaughter. As to duty of parents, etc., sec. 241. Prima facie evidence of marriage and that children are accused's children, sec. 242 (4). See evidence under 1. Wife is competent and compellable witness.

NOXIOUS THINGS

NOXIOUS THINGS—Throwing. See "EXPLOSIVES."

NUISANCES

A common nuisance is an unlawful act or omission to discharge a legal duty which endangers the lives, safety, health, property or comfort of the public or by which they are obstructed in the exercise of a common right. It is a criminal offence to commit a common nuisance which endangers the lives, safety or health of the public or which occasions injury to any person; other common nuisances are not criminal, although the proceedings are by indictment. The police officer is advised to seek legal advice before proceeding under this section.

Code, secs. 221-3. Indictable.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Leaving dangerous animals at large is probably a common nuisance; factories emitting noxious fumes or obstruction of highways.

OATHS, TAKING WITHOUT AUTHORITY

See "PERJURY, 6."

OBSCENE BOOKS AND PICTURES

Knowingly makes, sells, exposes for sale or to public view, or has in his possession for sale any obscene book or writing or picture, or model tending to corrupt morals; or publicly exhibits any disgusting object or indecent show; or publishes an advertisement of sells or has for sale anything intended to prevent conception or cause miscarriage; or for restoring sexual virility.

Code, s. 207. Indictable.

A.B., at , on , knowingly and without lawful justification or excuse did (INSERT ANY ONE OF THE ACTS MENTIONED IN THE SECTION) *contrary to section 207 of the Criminal Code.*

Warrant to arrest is necessary.

Evidence.—Subsection 2 of the section provides that it is a defence if the accused prove that the public good was served by the act and that there was no excess beyond what the public good required. Subsection 4 provides that the motives of the accused are irrelevant. "Obscene Book" is one expressing unchaste or lustful ideas tending to corrupt the minds of those open to such immoral influence. The act must have been committed knowingly. See sections 855 and 861, which provide that the obscene words need not be set out in the information.

2. Posting for transmission any obscene or immoral book or thing, or any circular or scheme to defraud or deceive the public.

Code, s. 209. Indictable.

A.B., at , on , did post for transmission through the post (OBSCENE OR IMMORAL BOOK, ETC.) (OR *a letter addressed to C.D. and divers other persons unknown, concerning a scheme devised or intended to deceive* (OR *defraud*) *the public*) *contrary to section 209 (clause) of the Criminal Code.*

Warrant to arrest is necessary.

Evidence.—This does not cover indecent matter sent sealed in a private letter. It is not an offence to do so, unless it is defamatory libel.

OBSTRUCTING PEACE OFFICER

Obstructing peace officer in the execution of his duty or a person assisting him or any person making lawful distress or seizure.

Code, s. 168. Indictable or Summary Conviction at Crown's option.

A.B., at , on , did unlawfully resist (OR *wilfully obstruct*) *C.D., a peace officer, to wit: a constable of the City of , in the execution of his duty, to wit: in executing a lawful warrant of arrest against E.F.*

Warrant to arrest is necessary.

Evidence.—Inciting a mob to rescue a prisoner and following a constable in a menacing attitude even without physical conflict is an obstruction. An enforcement officer appointed under a provincial statute is a peace officer. Failure to stop a vehicle when ordered by a constable has been held an obstruction. Peace officer is defined in the Code, s. 2(27) as amended in 1930, chap. 11, sec. 1. Prove accused knew officer was such. Any arrest made must be proved to have been legal.

OBSTRUCTING A PUBLIC OFFICER

Obstructing a public officer, or a person acting in his aid, in the execution of his duty.

Code, s. 167. Indictable.

A.B., at , on , did resist (OR *wilfully obstruct*) *one C.D., a public officer, to wit:* (STATE WHAT) (OR *one E.F., a person acting in aid of one C.D., a public officer, to wit:) in the execution of his duty, namely* (STATE THE DUTY), *contrary to section 167 of the Criminal Code.*

Warrant to arrest is necessary.

Evidence.—"Public officer" defined in sec. 2(33). Prove that the officer was actually in the execution of his duty and that the accused resisted or wilfully obstructed him in doing what he had a legal right to do. Prove accused knew officer was such.

OFFENSIVE WEAPONS

1. Care.
2. Types.
3. Use of.
4. Possession and permits.
5. Offences.

1. A policeman should be thoroughly familiar with firearms of all kinds, but particularly with the one with which he is armed. He should practice so that he will be able to hit a mark at twenty-five paces; he should keep it in first-class working order by daily inspection, and at least weekly oiling and cleaning, whether used or not. A leather holster draws moisture and this might effect the mechanism of the arm or the cartridges themselves. A police officer does not require a firearm often, but when he does, he needs it badly; his life may depend on it.

2. A police officer should not call all pocket firearms revolvers. Some are not revolvers. The ordinary police firearm, Colt police positive or Smith & Wesson with the revolving cylinder is a revolver. Others with either the single shot or automatic type with the magazine in the handle-grip are pistols.

3. A police officer should only resort to firearms when his life is in danger, or to prevent the escape of a fugitive whose capture cannot be effected in any other way, but only if such fugitive is charged or convicted of murder, rape, robbery or other serious crime of a like character. In law a police officer is justified in shooting to effect the arrest of one whom he may arrest without a warrant (see "Arrest" for these offences), if the person flees, unless the escape can be prevented in a less violent manner. This permits the use of firearms only as a last resort. A police officer is never justified in using firearms when proceeding to arrest any person charged with a breach of a provincial law. If he do so and the fugitive is wounded or killed, he would be guilty of the criminal offence of "wounding" in the first instance and of "murder" in the second.

4. Possession and permits. Sections 115 to 129 deal with the illegal possession and sale of firearms. Offensive weapons in these sections are defined by section 2 (25) of the Code to include any gun or firearm, air-gun, or any part thereof, or any sword blade, bayonet, pike, pike-head, spear, spear-head, dirk, dagger, knife or other instrument intended for cutting or stabbing, or any metal knuckles, or other deadly or dangerous weapon, and any instrument or thing intended to be used as a weapon, and all ammunition which may be used with or for any weapon.

An alien must have a permit to have any gun, rifle or firearm or ammunition in his possession. (Code, sec. 118(*d*)).

A British subject does not require a permit to carry a rifle or shot-gun or to have in his house or shop a revolver or pistol. He does require a permit, however, to carry a revolver or pistol on his person (Code, s. 118 (*a*)) or to purchase one (*b*).

A peace officer may search any person whom he has reason to believe has any weapon on his person and may seize such weapon. (Code, s. 118 (*b*).)

Seized weapons are subject to disposal by the Attorney-General of the province.

The persons mentioned in the Code, section 118 (2) may issue permits to buy, carry or have firearms. This section does not authorize justices of the peace to grant these permits.

Permits are not required by the persons mentioned in Code, sections 118 (5) and 125, namely, soldiers, sailors, peace officers, immigration officers or manufacturers or dealers in firearms having fixed places of business.

5. Offences. Having or carrying offensive weapons dangerous to public peace.

Code, s. 115. Indictable.

A.B., at , *on* , *did carry* (or *have in his possession*) *a pistol* (or name the firearm) *for a purpose dangerous to the public peace, contrary to section 115 of the Criminal Code.*

Warrant to arrest is required.

Evidence.—Prove defendant's possession and produce weapon as exhibit (if loaded, unload it for safety, but produce cartridges and have them labelled). Prove intent to disturb peace. It might be inferred from the known occupation of defendant, i.e., that he was engaged in rum-running. Limitation is 6 months.

Carrying an offensive weapon when found in possession of any goods liable to seizure under the excise, customs, trade or navigation laws, knowing such goods liable to seizure.

Code, s. 117. Indictable.

A.B., at , on , did have on his person an offensive weapon, to wit: (NAME OF FIREARM) *while having in his possession certain goods, to wit* (NAME THE GOODS), *knowing such goods to be liable to seizure under the (Excise, Customs, or Navigation) Act contrary to section 117 of the Criminal Code.*

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—Prove that accused had offensive weapon on his person; that he had goods liable to seizure, contrary to Customs, Excise or Navigation Act. Evidence of the manner in which the goods are secreted or the Customs evaded will be prima facie evidence of knowledge that they were liable to seizure.

Carrying an offensive weapon when at a public meeting or on his way to attend same and refusing to deliver up the same to any justice on demand.

Code, s. 126. Indictable or Summary Conviction.

A.B., at , on , while attending (OR *on his way to attend*) *a public meeting, to wit* (STATE MEETING) *did have in his possession an offensive weapon, to wit* (NAME OF WEAPON), *and did refuse to deliver up the same to , one of His Majesty's Justices of the Peace for the County of , upon demand contrary to section 126 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—The justice may himself record the refusal and adjudge the offender to pay a penalty not exceeding eight dollars; or if trial proceeded with, the justice is a witness; he proves his appointment and jurisdiction and his demand and refusal of the accused to deliver up the offensive weapon; the possession of the weapon must be proved and also that the meeting was a public meeting. Limitation is 1 year.

Not being a sheriff, justice, peace officer or mayor comes within one mile of the place where a public meeting is being held during any part of the day on which the meeting is to take place, while armed with an offensive weapon.

Code, s. 127. Indictable.

A.B., at , on , he not then being the sheriff or deputy sheriff or a justice of the peace for the county (OR *district*) *of* , (OR *the mayor*, OR *a justice of the peace* OR *other peace officer for the City* (OR *town*) *of , in the County* (OR *district*) *of , in which a certain public meeting was held on the said day at* (DESCRIBE IT) *or a constable or special constable employed by any of the officials aforesaid for the preservation of the public peace at the said meeting, did come within one mile of the place appointed for such meeting, armed with an offensive weapon, to wit (a pistol,* OR DESCRIBE IT) *contrary to section 127 of the Criminal Code.*

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—Prove that a public meeting was held: (the officials in charge of the meeting will afford the best proof). Prove that defendant was armed as required, and that he is not one of the officials mentioned. Limitation is 1 year.

An employee of a public work (i.e., railway, canal, road, bridge or other work, or mining operations, Code, s. 142 (b)) found carrying any weapon for purposes dangerous to the public peace after proclamation by the Governor in Council that Part III of the Criminal Code is in force.

Code, s. 148. Indictable.

A.B., at , on , after a proclamation having been issued by the Governor in Council declaring Part III of the Criminal Code (OR *section 148*, AS THE CASE MAY BE) *to be* *in force, did have on his person an offensive weapon, to wit, a pistol* (OR DESCRIBE IT) *contrary to section 148 of the Criminal Code.*

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—Produce Canada Gazette showing section or Part III in force: show that accused is an employee of a public work described in section 142 (b): produce evidence showing that accused had on his person an offensive weapon and produce the weapon, if possible, and prove intent to endanger peace either by conduct of accused or by evidence of persons whom accused had approached for assistance.

Discharging or attempting to discharge loaded firearm with intent to maim.

Code, s. 273. See "WOUNDING."

Two or more persons carrying offensive weapons in a public place in such a way to create terror or alarm.

Code, s. 116. Summary Conviction.

A.B. and C.D., at , on , being together did both of them carry offensive weapons, to wit (STATE KIND) *in a public place, to wit* (STATE PLACE) *in such a manner and under such circumstances as were calculated to create terror and alarm* (STATE MANNER AND CIRCUMSTANCES) *contrary to section 116 of the Criminal Code.*

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—Prove the carrying as in other sections and that both accused were together; prove actions calculated to terrorize or the particular circumstances likely to alarm peaceable citizens. Limitation 1 month.

(a) Having pistol, revolver, knife, metal knuckles or skull cracker on person without a permit;

(b) Selling or lending any of the above to person not having a permit;

(c) Not keeping record of sale of any of the above or of an airgun or neglecting to send a duplicate of such record to issuer of the permit;

(d) Issuer not keeping record of permits issued or of sales returns;

(e) Being an alien has any firearm (including shot-gun and every kind of firearm) or ammunition in his possession without a permit. An alien is forbidden to have a firearm in his home or store without a permit.

(f) Issues permit without authority.

Code, s. 118. Summary Conviction.

Limitation is one month.

A.B., on , at , did have upon his person a pistol (OR DESCRIBE IT) (STATE WHERE)*;*

OR

did, sell (give or lend) a pistol (OR DESCRIBE IT) *to one , not being the holder of permit as required by law,*

OR

did neglect to keep a record of the sale of a pistol (OR DESCRIBE IT) *to one ,*

OR

having sold a pistol (OR DESCRIBE IT) *to , neglected to send a record of such sale to* (OFFICE) *thereunto authorized by law to issue permits under the Criminal Code, section 118* (2)*;*

OR

being one of the officers mentioned in section 118 (2)*, to wit* (NAME THE OFFICE) *did issue a permit to , for the purpose of* (STATE PURPOSE)*, and did fail to keep a duplicate of such permit,*

OR

being one of the officers mentioned in section 118 (2)*, to wit* (NAME THE OFFICE) *did issue a permit to one , to pur-*

chase a pistol (NAME THE WEAPON), *and did fail to keep any record received by the sale of such weapon;*

OR

being an alien have (STATE WHERE) *a firearm, to wit:* (NAME THE WEAPON), *he not being the holder of a permit thereunto required by law,*

OR

not being one of the officers mentioned in section 118 (2) *authorized to issue permits to have or purchase firearms, did issue a permit to one* , *purporting to authorize him to purchase* (OR *have*) *a firearm, to wit* (NAME IT) *contrary to the Criminal Code, section 118* (*fill in subsection*).

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—The production of a permit is prima facie evidence of its contents and of the official character of the person by whom it was granted. The nationality of aliens might be inferred or may be proved. It is a matter of defence that accused is permitted to have firearms because he is a peace officer or immigration officer, etc.

Selling firearms to minor under the age of sixteen.

Code, s. 119. Summary Conviction.

A.B., on , *at* , *did sell* (OR *give*) *a pistol* (OR *airgun* OR *ammunition for pistol* OR *airgun*) *to a minor under the age of sixteen years, to wit* (NAME OF MINOR) *contrary to section 119 of the Criminal Code.*

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—Produce weapon sold, summons the minor and his parents or guardians to prove age. Limitation is one month.

Having a pistol or airgun on the person when arrested on a warrant or while committing an offence.

Code, s. 120. Summary Conviction.

A.B., on , *at* , *having been arrested on a warrant issued by C.D., Esquire, a justice of the peace in and for* , *for an offence, to wit:* (STATE THE OFFENCE) (OR *having been arrested while committing the offence of* (STATE OFFENCE), *did have upon his person when so arrested a pistol* (OR *airgun*) *contrary to section 120 of the Criminal Code.*

EVIDENCE.—Produce warrant of arrest and give evidence of the arrest and produce the weapon, or state the offence found committing. Limitation is one month.

Having a pistol or airgun on his person with intent therewith to injure any other person.

Code, s. 121. Summary Conviction.

A.B., on , *at* , *did have on his person a pistol* (OR *airgun*) *with intent therewith to injure one C.D. contrary to section 121 of the Criminal Code.*

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—Show possession as in other cases; the intent to injure can only be inferred from the acts of the accused. Limitation is one month.

Pointing a firearm or airgun, whether loaded or not, at any person.

Code, s. 122. Summary Conviction.

A.B., on , *at* , *did point a firearm, to wit* (NAME IT) (OR *airgun*) *at one C.D. contrary to section 122 of the Criminal Code.*

WARRANT TO ARREST IS REQUIRED.

Limitation is one month.

Having on the person any dagger, knife, metal knuckles, skull cracker, sling shot, or weapon of a like character; or sells the same; or being masked or disguised carries or has any firearm or airgun.

Code, s. 123. Summary Conviction.

A.B., at , on , did carry on his person a bowie-knife (OR DESCRIBE THE WEAPON); (OR *did sell or expose for sale a bowie-knife* (OR *other weapon enumerated in sec. 123,* DESCRIBING IT); (OR *being masked* (OR *disguised*) *did carry* (OR *have in his possession,* STATING WHERE) *a firearm* (OR *airgun*), *contrary to section 123 of the Criminal Code.*

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—It is a matter of fact and not of law whether a knife is a dagger. Any weapon intended for thrusting or stabbing is a dagger or bowie-knife. The length of the blade is immaterial. Limitation is one month.

Carrying a sheath-knife in any town or city when not required by his trade or calling.

Code, s. 124. Summary Conviction.

A.B., at , on , did carry on his person a sheath-knife not being engaged then and there in a trade or occupation requiring him so to do.

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—See preceding clause. Limitation is one month.

Carrying or discharging firearms without authority on property under the control of Minister of National Defence.

Code, s. 129. Summary Conviction.

A.B., at , on , not being thereunto lawfully authorized by the Minister of National Defence did carry (OR *discharge*) *a firearm, to wit:* (NAME IT) *in* (DESCRIBE PROPERTY), *a property under the control of the said Minister of National Defence, contrary to section 129 of the Criminal Code.*

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—Judicial notice should be taken that Armories are under the control of the Minister of Defence, or it may be proved by, as in the case of other property, by the caretaker or local officer commanding.

After proclamation by the Governor-in-Council bringing Part III of the Criminal Code into force, keeping any weapon while employed on public work.

Code, s. 146. Summary Conviction.

A.B., at , on , while engaged in a public work, to wit: (DESCRIBE IT) *did keep or have in his possession or under his care or control a weapon, to wit* (DESCRIBE IT), *after a proclamation had been issued by the Governor-in-Council bringing Part III of the Criminal Code into force, contrary to section 146 of the Criminal Code.*

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—See as in section 148 ante, and as to search for, sec. 608, and following sections.

Any person receiving or concealing any weapon for an employee, as defined in the last preceding clause, with intent to defeat the purpose of the proclamation therein mentioned.

Code, s. 147. Summary Conviction.

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—See as in section 148 ante.

OPIUM AND NARCOTIC DRUG ACT

Drugs are defined in the Act (R.S.C. 1927 chap. 144, s. 2 (d)) and include cocaine, morphine, heroin and others. The offences are:

(a) importing or exporting any drug, or not being a common carrier, takes or carries any drug from any place in Canada to another place in Canada without a licence from the Minister of Health of Canada;

(b) imports or exports at any port not authorized by the Minister;

(c) exports any drug not marked as prescribed by the Minister;

(d) has any drug in his possession except under a licence from the Minister, unless he is a doctor, dentist, veterinary surgeon or druggist;

(e) sells, gives any drug to a minor;

(f) manufactures, sells or gives drugs to any person without first obtaining a licence from the Minister, unless he is a doctor, dentist, veterinary or druggist.

Section 4. Summary Conviction or indictable at Crown's option, except (e) which is indictable only.

A.B., at , on , did import into (OR *export from*) *Canada a drug, to wit* (NAME IT) *without first obtaining a license therefore from the Minister of Health, contrary to the Opium and Narcotic Drug Act, section 4 (a). Using the above sample as a basis, any charge under the other clauses may be laid, using the words of the section.*

2. Persons licensed to deal in drugs, selling or giving drugs to any person (other than to a doctor, dentist or veterinary surgeon or bona fide wholesale or retail druggist), or selling or giving to a doctor, etc., without his written order, signed and dated; or druggist, selling or giving drugs, except on prescription signed by a doctor, dentist or veterinary surgeon, whose signature he has verified; or using prescription twice to sell drugs.

Section 5. Summary Conviction.

A.B., at , on , being a person licensed by the Minister of Health to deal in drugs, did sell (OR *give*) *to C.D., he not being a duly authorized and practising physician, veterinary surgeon or dentist, or a bona fide wholesale druggist or druggist carrying on business in a bona fide drug store, a drug, to wit* (NAME THE DRUG), *contrary to section 5 of the Opium and Narcotic Drug Act.* (*Other charges in this section may be substituted in the above sample complaint, using the words of the section.*)

3. Physician, dentist or veterinary prescribing, giving or furnishing any drug or signing prescription for drugs, unless it is necessary for treatment of the patient.

Section 6. Indictable or Summary Conviction at the Crown's option.

A.B., at , on , being a practising physician (OR *dentist* OR *veterinary surgeon*) *did prescribe* (OR *give* OR *sell* OR *sign a prescription*) *for a drug, to wit* (NAME THE DRUG) *for one C.D., he not then requiring such drug for medicinal purposes* (OR *he not being under professional treatment by the said A.B.*), *contrary to section 6 of the Opium and Narcotic Drug Act.*

4. Administering to a child under the age of two any remedy or preparation containing opium or morphine, the sale of which is permitted by section 8.

Section 8 (3). Summary Conviction.

5. Dealers in drugs (except physicians, dentists or veterinary surgeons) neglecting to keep records as required by regulations, or not producing such records for inspection by peace officer or person authorized by the Minister of Health, or not giving information to the Department.

Section 9. Summary Conviction.

6. Physicians, dentists and veterinary surgeons neglecting to give information to the Department.

Section 9 (3). Summary Conviction.

7. Having opium pipe, lamp or other device for preparing or smoking opium; or who smokes opium or is found in any resort where opium is smoked.

Sections 10 and 11. Summary Conviction.

A.B., at , on , did without lawful excuse have in his possession an opium pipe (OR *opium lamp* OR DESCRIBE THE

DEVICE) *contrary to section 10 of the Opium and Narcotic Drug Act* (OR *smoke opium* OR *was without lawful excuse found in No.* , *Street, a place to which persons resort for the purpose of smoking or inhaling opium, contrary to section 11*).

WARRANT TO ARREST IS NECESSARY, but as the offences against this Act are declared to be criminal offences, a police officer may arrest any one "found committing" any offence, without warrant.

8. Search. Any police officer may search without warrant either by day or night any store, shop, warehouse, outhouse, vessel or vehicle, or person, if he has reasonable cause to suspect that drugs are kept contrary to the Act. A warrant is, however, necessary to search a dwelling-house.

Search of opium joint, see Code, secs. 641 and 642, for form of order, see "SEARCH, 6."

9. EVIDENCE.—In charges under section 4 clauses (a), (b) (e) or (f) of the act, i.e., (a) unlawful importing or exporting, (b) using unauthorized port, (e) giving to minor, (f) manufacturing or giving to any person, the burden of proof is upon the accused to show that he has a license from the Minister or authority to commit the act. Physicians, etc., charged with prescribing unlawfully who plead that the drug was given medicinally are required to prove it, the onus is on them. Physicians cannot prescribe drugs for drug addicts and then allege that it was for medicinal purposes unless the diseased condition for which it is prescribed was caused by other than excessive use of drugs (section 14). A physician who prescribes drugs for self administration by an addict must at his peril keep himself informed of the patient's condition, and need of the drug for medicinal purposes. The occupier of a room or place where drugs are found is deemed to be in possession of the drugs unless he prove otherwise (section 15).

Analysis of drugs may be made by any analyst appointed under the Food and Drugs Act or other Dominion statute or the Chief or Assistant Chief Dominion Analyst, or an analyst appointed by a provincial government to make an analysis for any public purpose (sections 16 and 2(c) (1)).

Any receptacle, boat, vehicle, or conveyance in which drugs are found may be seized (section 18). Persons charged with indictable offences under this Act may be photographed and finger-printed, and under section 4(a), (d), (e) or (f) even though charged as a summary conviction offence, it may be done (section 25).

The fact that an accused charged with having opium equipment had no knowledge that the equipment was in his possession is no defence unless it appears that it was placed in his house by other persons.

ORE

See "MINING."

PEACE OFFICER, MISCONDUCT

PEACE OFFICER, MISCONDUCT by making a false return to a writ or misconducts himself in the execution thereof.

Code, s. 166. Indictable.

WARRANT TO ARREST IS NECESSARY.

PEACE OFFICER, REFUSING TO AID

PEACE OFFICER, REFUSING TO AID in the execution of his duty after having had reasonable notice that he was required to assist.

Code, s. 167(2). Indictable.

A.B., at , *on* , *having reasonable notice that he was required to assist one C.D. a police constable of the City of Toronto* (OR AS THE CASE MAY BE) *in the arrest of one E.F.* (OR *a person unknown* OR *in preserving the peace*) *did without reasonable excuse omit to do so contrary to section 167(2) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—It has been held to be necessary to prove (a) that the constable saw a breach of the peace being committed (or that he had legal authority to arrest E.F.), (b) that there was reasonable necessity for calling for aid, (c) that the accused without lawful excuse refused to do so; and in such case it is no defence that the aid of one man would have been of no use.

See "OBSTRUCTING."

PEACE OFFICER PERMITTING AN ESCAPE

See "ESCAPES, 8 and 9."

PEACE OFFICER, WOUNDING OF

PEACE OFFICER, WOUNDING OF when making arrest, see "WOUNDING WITH INTENT."

PERJURY AND SUBORNATION OF PERJURY

1. Perjury and subornation.
2. False affidavit under statute.
3. False affidavit not under a statute.
4. Manufacturing evidence.
5. False accusation of crime.
6. Taking oath without authority.
7. Advertising immunity for return of goods.
8. False certificate of execution of death sentence.
9. Signing pretended affidavit.

1. Perjury is false evidence of a matter of fact, opinion, belief or knowledge given in any court, commission, inquest or lawful enquiry on oath intended to mislead (Code, ss. 170, 171) or an oath, affidavit or declaration wilfully and corruptly making a false statement. Subornation of perjury is counselling or procuring the commission of perjury which is actually committed (section 170(2)).

PERJURY AND SUBORNATION OF PERJURY in giving evidence in any court or inquest or commission, etc.

Code, s. 174. Indictable.

A.B., at , *on* ,[1] *did commit perjury at the Court of General Session of the Peace held at* , *on* , *in the trial of C.D. for* , *by swearing that* (HERE SET OUT THE FALSE EVIDENCE AS GIVEN) *knowing the said evidence to be false and with intent to mislead the said court contrary to section 174 of the Criminal Code.*

OR

[1] *did unlawfully commit subornation of perjury by counselling and procuring one E.F. to commit perjury which was actually committed by the said E.F.* (FOLLOW THE ABOVE FORM).

WARRANT TO ARREST IS NECESSARY.

Corroboration is required.

EVIDENCE.—The false evidence need not be material (section 170) judicial proceeding defined section 171(2). Prove that the proceedings were judicial by the production of the record by an officer of the court. The court reporter should read the alleged false evidence although any other witness may give his recollection of what the evidence was. Superior Court judges should not be called, although judges of inferior courts and magistrates may be called to prove their notes. It has been held that Grand Jurors cannot be called to prove evidence before them, the proceedings in the Grand Jury room being secret. The corroboration required is not as to statements made but that they were false. Evidence should be given that the accused was properly sworn and this should be given by the official who administered the oath. If the accused objected on the ground of conscientious scruples to being sworn and made solemn affirmation that is sufficient. See section 862.

2. FALSE OATH OR AFFIDAVIT in any case where required or authorized by law to make statement on oath or affirmation.

Code, s. 175. Indictable.

Information as above INSERT *being authorized or required by law to make oath or affirmation to* (STATE WHAT) *did falsely and* *corruptly make the following statement* (set out) *knowing it to be false and with intent to mislead.*

Warrant to arrest is necessary.

This covers false affidavits or declarations required to be made by law such as under the Marriage Act or Election laws.

3. False oath or affidavit in other cases.

Code, s. 176. Indictable.

Information as under section 174 above.

Warrant to arrest is necessary.

This offence covers the making of any false affidavit or declaration not in a judicial proceeding or made pursuant to a statute.

4. Fabricating evidence, with intent to mislead any court or person holding a judicial inquiry which would not amount to perjury or subornation of perjury.

Code, s. 177. Indictable.

Warrant to arrest is necessary.

Evidence.—This offence is manufacturing evidence such as "planting" a bullet to complete a line of evidence of shooting with intent, or "planting" stolen goods so that they may be found and thus complete evidence of theft or receiving.

5. Conspiring to bring false accusation against any person for an alleged offence, knowing him to be innocent.

Code, s. 178. Indictable.

A.B., at , on , did conspire with one C.D. (or *a person unknown*) *to prosecute E.F. for the crime of theft* (or as the case may be) *knowing the said E.F. to be innocent thereof contrary to section 178 of the Criminal Code.*

Warrant to arrest is necessary.

Evidence.—Prove the conspiracy; the laying of the charge or the attempt to lay it and by circumstances, that the accused knew E.F. to be innocent.

6. Taking oaths without authority.

Code, s. 179. Indictable.

Warrant to arrest is necessary.

7. Advertising immunity from prosecution for the return of stolen goods.

Code, s. 183. Penal action.

This is neither a summary conviction nor an indictable offence. It is in the nature of a civil action for a penalty. The police should not concern themselves in it. Limitation under clause (d) is six months.

8. Signing false certificate regarding the execution of a prisoner.

Code, s. 184. Indictable.

Warrant to arrest is necessary.

9. Affidavit, signing pretended. Signing any document purporting to be an affidavit or declaration when it was not sworn before him; or signing it without authority; or using or offering to use such false affidavit or declaration.

Code, s. 179(2). Summary conviction.

A.B., at , on , did sign the jurat to an affidavit (or *statutory declaration*) *purporting to have been sworn to by C.D., he the said C.D. not then and there appearing before him to swear the said affidavit* (or *declaration*) (or, *did administer to one C.D. an oath* (or *affirmation*) *and did sign the jurat to an affidavit* (or *statutory declaration*) *he well knowing that he had no authority to administer such oath* (or *affirmation* or *sign as aforesaid*) *contrary to the Criminal Code, section 179(2).*

Warrant to arrest is required.

Evidence.—Prove the signature to the jurat (the jurat is the part that commences "Sworn before me at") either by comparison or by someone who knows accused's writing; prove that the deponent was not present and did not swear the affidavit or that accused has no power to administer oaths. If he purports to sign as a notary, commissioner or justice, an employee of the provincial government having custody of the records may prove this.

PERSONATION

See "Impersonation."

PIGEONS

Wilfully killing, wounding or taking which would not amount to theft.

Code, s. 393. Summary conviction.

A.B., at , on , did wilfully kill (or *wound* or *take*) *a pigeon* (or *house-dove*) *the property of C.D. contrary to the Criminal Code, section 393.*

Warrant to arrest is necessary.

Evidence.—The wilful shooting of pigeons or wounding is an offence under above. It is hard to conceive circumstances in which the "wilful taking" would not amount to theft. See section 370.

PIRACY

Piracy by the laws of nations. This means shortly: "robbery at sea" not between individuals on the same boat but by one ship stopping another.

Code, s. 137. Indictable.

Warrant to arrest not required.

Piracy, accompanied by assault with intent to commit murder, or wounding or any other act endangering life.

Code, s. 139. Indictable.

Warrant to arrest not required.

Master or officer of ship carrying guns not defending his ship from pirates.

Code, s. 140. Indictable.

Warrant to arrest is necessary.

PIRATICAL ACTS

Piratical acts, by giving aid to King's enemies; destroying goods in British ships; piratically runs away with the ship; yield up any ship to a pirate; aids pirate by bringing messages, prevents defence; furnishes pirate with ammunition or corresponds with pirates.

Code, s. 138. Indictable.

Warrant to arrest not required.

PLANTS OR ROOTS

See "Injury."

POISONING

Poisoning, with intent to endanger life or inflict grievous bodily harm.

Code, s. 277. Indictable.

A.B., at , on , did unlawfully administer to (or *cause to be administered to* or *cause to be taken by*) *C.D. a certain poison* (or *destructive or noxious thing*) *to wit* (*describe*) *so as thereby to endanger the life of* (or *to inflict grievous bodily harm upon*) *the said C.D. contrary to section 277 of the Criminal Code.*

Warrant to arrest is necessary.

2. Poisoning with intent to injure, aggrieve or annoy.

Code, s. 278. Indictable.

Information as above, substitute *"with intent to injure* (or *aggrieve* or *annoy*) *the said C.D. contrary to section 278, etc."*

Warrant to arrest is necessary.

Evidence.—The quantity of the dose is material in some cases because a drug may be innoxious in small doses. Prove that the dose was administered with the intent mentioned in one of the above sections. It has been held that the administration of cantharides (Spanish Fly) to a woman to excite her sexual passion is with intent to "injure, aggrieve and annoy."

POLYGAMY

See "Marriage."

POSSESSION OF TREES, FENCE, WIRE GATE, ETC.

Possession of trees, fence, wire gate, etc., and being unable to satisfy the justice that they came lawfully into his possession.

Code, s. 395. Summary conviction.

Warrant to arrest is required.

Evidence.—The thing must have a value of at least twenty-five cents. The onus is upon the accused to show lawful possession. The value must appear in the information.

POSTING OBSCENE BOOKS OR SCHEME TO DEFRAUD

See "Obscene books and pictures, 2."

PRIZE FIGHTS

1. Sending or accepting a challenge or going into training, or acting as trainer or second.

Code, s. 104. Summary conviction.

2. Engaging as a principal in a prize-fight.

Code, s. 105. Summary conviction.

3. Attending prize fight as aid, second, surgeon, reporter or adviser, or who promotes such a fight.

Code, s. 106. Summary conviction.

4. Leaving Canada with intent to engage in prize fight outside of Canada.

Code, s. 107. Summary conviction.

A.B., at , *on* .

(*1*) *did send* (or *publish* or *cause to be sent or published*) (or *accept* or *cause to be accepted*) (or *act as trainer* or *second* *to C.D. who intended to engage in a prize-fight*) *a challenge to C.D. to fight a prize-fight.*

(*2*) or *did engage as a principal in a prize-fight.*

(*3*) or *did attend a prize-fight at* , *as a second* (or *surgeon, or referee, or backer*) (or *did advise* or *promote*, or *encourage by* (state in what manner) *a prize-fight between C.D. and E.F.* (or *persons unknown*).

(*4*) *being a resident of Canada did leave Canada with intent to engage in a prize-fight at* .

contrary to the Criminal Code, section (state).

Warrant to arrest is necessary.

Evidence.—If the justice is satisfied that the fight is the result of a quarrel or dispute he may discharge the accused, or fine them (Code, s. 108). A boxing exhibition is not a prize-fight even though a prize is offered. There must be the intention to fight until there is a "knock-out" or until one of the contestants is exhausted from fatigue or injury. A meager definition is found in the Code, s. 2(30). The decided cases requires more than a fight and a previous arrangement. In effect the intention must be a fight to a finish: it may be with or without gloves. Section 605 gives supreme and county judges, recorders, police magistrates all the powers of a justice as to prize-fights.

Preventing.—If a sheriff, or police officer believes that a person about to engage as a principal in a prize-fight is within his bailiwick he should arrest him. The justice may require him to enter into a bond (Code, s. 627). A sheriff (not a police-officer however) may summons a posse to his aid to enter a prize-fight and arrest all persons thereat or to arrest persons coming into Canada to engage in a prize-fight.

PROCURING

1. By parent or guardian.
2. Generally and living on avails.
3. Householder permitting defilement.
4. Conspiracy to defile.

1. BY PARENT OR GUARDIAN any female to have carnal knowledge with any other person, or being parent or guardian orders, permits or knowingly receives the avails of the seduction or prostitution.

Code, s. 215. Indictable.

A.B., at , on , being the parent (OR *guardian*) *of one C.D. a female under* (OR *over*) *the age of fourteen years did*[1] *procure the said C.D. to have carnal knowledge with one E.F. contrary to the provisions of section 215(a) of the Criminal Code.*

OR

[1] *order* (OR *was a party to* OR *permit* OR *knowingly receive the avails of*) *the defilement* (OR *seduction* OR *prostitution*) *of the said C.D. by one E.F. contrary to the provisions of section 215(b) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Corroboration is necessary (section 1002). Proof of age (section 984). Prove that accused is a parent by birth certificate and identification or a guardian by other evidence. The chastity of the female is immaterial. Limitation is one year.

2. GENERALLY, is procuring, or attempting to procure any female to have carnal connection either in or out of Canada with any other person; entices any woman, not being a prostitute, to a bawdy house; knowingly conceals any woman in a bawdy house; procuring or attempting to procure any woman to become a prostitute; or to leave her place of abode with intent to become the inmate of a bawdy house; on the arrival of any woman in Canada directs her to a bawdy house; procures any woman to come to Canada for prostitution; by threats or intimidation procures or attempts to procure any woman to have carnal connection; for purposes of gain exercises control, etc., over any woman in a manner showing he is aiding or compelling her prostitution; by false pretences procures any woman to have unlawful carnal connection within or without Canada; supplies drugs or intoxicants to any woman to stupefy her so as to enable any person to have carnal knowledge with her; being a male lives on the avails of prostitution.

Code, s. 216. Indictable.

A.B., at , on , did procure (OR *attempt to procure* OR *solicit*) *C.D. a woman to have carnal connection with E.F. at a place within* (OR *without*) *Canada contrary to section 216(a) of the Criminal Code.* (FOR OTHER OFFENCES UNDER THIS SECTION FOLLOWS THE WORDS OF THE CLAUSE, UNDER CLAUSE (j) THE FALSE PRETENCES SHOULD BE SET OUT IN THE INFORMATION.)

OR

(*l*) *A.B., at , between the dates , being a male person did live wholly or in part on the earnings of the prostitution of one C.D. contrary to section 216(l) of the Criminal Code.*

Warrant to arrest is not required where the officer suspects the offence has been committed or is about to be committed.

EVIDENCE.—Corroboration is required (section 1002). Limitation is one year. Warrant to search for girls in bawdy houses (section 640). Prostitution means indiscriminate sexual intercourse. Sexual intercourse with one man does not make the woman a prostitute. Procuring indicates some persuasion and not a case where the girl needed no procuring but acted of her own free will. The procuring must take place in Canada, the sexual intercourse may be outside of Canada.

See also "VAGRANCY" for living on the avails of prostitution.

3. HOUSEHOLDER PERMITTING CARNAL KNOWLEDGE of a girl under eighteen years of age on premises under his control.

Code, s. 217. Indictable.

A.B., at , on , being the occupier (OR *having the management or control*) *of house No. street did induce* (OR *knowingly suffer*) *one C.D. a girl under the age of fourteen years* (OR *above the age of fourteen but under eighteen years*) *to resort to* (OR *be upon*) *the said premises for the pur-*

pose of being unlawfully carnally known contrary to section 217 of the Criminal Code.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Corroboration is required (section 1002). The girl must be under eighteen years of age. It is not necessary to prove that the accused knew the girl to be under that age. Limitation is one year.

4. CONSPIRACY TO DEFILE.—Conspiring with any other person by false pretences, etc., to induce any woman to commit fornication or adultery.

Code, s. 218. Indictable.

A.B., and C.D., at , on , did conspire by false pretences (OR *false representations* OR OTHER FRAUDULENT MEANS NAMING THEM) *to induce one E.F. a female to commit adultery* (OR *fornication*) *with one G.H. contrary to section 218 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Corroboration is required (section 1002). The offence is rape where the act is completed and the consent is obtained by false pretences. This offence is "conspiring to induce" and it is submitted that it is immaterial that the conspiracy was unsuccessful.

PROSTITUTES

PROSTITUTES, and living on the avails, see "VAGRANCY" and "PROCURING" and "INDIAN WOMAN."

PUBLIC MEETING

Lying in wait for persons returning with intent to assault or to provoke a breach of the peace.

Code, s. 128. Indictable.

A.B., at , on , did lie in wait for one C.D. returning from a public meeting, to wit , held at , with intent to assault the said C.D. (OR *did use abusive language, to wit* , OR *opprobrious epithets, to wit* ,) *against the said C.D. with intent to cause a breach of the peace contrary to section 128 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

Limitation is one year.

PUBLIC OFFICER MAKING FALSE RETURNS

PUBLIC OFFICER MAKING FALSE RETURNS of any money collected by him or entrusted to his care.

Code, s. 416. Indictable.

A.B., at , on , being a collector of customs at the Port of , did make a false statement or return of monies collected by him (OR *entrusted to his care*) *to the Department of Customs contrary to section 416 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The section covers any officer entrusted with the collection, receipt or management of any part of the public revenues and it is unnecessary to prove intent to defraud.

PUBLIC OFFICER, WOUNDING

See "WOUNDING PUBLIC OFFICER."

PUBLIC SERVANT

Refusing to deliver up chattel, money, books, etc., upon demand.

Code, s. 391. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—The section covers employees of His Majesty, the government of Canada or one of the Provinces or any municipality.

PUBLIC STORES, UNLAWFUL POSSESSION

1. Receiving, keeping, selling public stores, knowing them to bear government mark.

Code, s. 434. Indictable or Summary Conviction at Crown's option. If value is under $25 Summary Conviction.

A.B., at , on , did sell (OR *receive* OR *possess* OR *keep*) *certain public stores, to wit,* (*describe them*) *bearing His Majesty's mark, to wit* (*describe it*) *knowing them to bear such mark, contrary to the Criminal Code, section 434.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The proof that accused has authority to sell, etc., is on him. Prove that the stores bear one of the marks described in section 432 and that accused knew them to bear such mark. If the accused is in His Majesty's service or a dealer in marine stores he shall be presumed to have known the stores bore the mark (s. 991(2)).

2. Person, not being in His Majesty's service or a dealer, having possession without being able to justify, or having had possession at any time.

Code, s. 435. Summary Conviction.

WARRANT TO ARREST IS NECESSARY.

3. Dredging or searching for stores in sea near any of His Majesty's moorings or vessels or docks without permission in writing from Admiralty.

Code, s. 437. Summary Conviction.

WARRANT TO ARREST IS NECESSARY.

PUNISHMENT

Persons sentenced to imprisonment for two years or more are sent to the Penitentiary (R.S.C. 1927, chap. 154, sec. 41). The term commences when the prisoner arrives in the penitentiary (same Act, sec. 44(4)).

Persons sentenced to less than two years are sent to the common gaol, unless some other place, such as a reformatory or industrial farm, is stipulated. These sentences commence on the day they are passed, unless some other time is fixed by the sentence (R.S.C. 1927, chap. 163, sec. 3).

Suspended sentence may be passed in certain cases (Code, sec. 1081). This does not mean that the judge imposes the sentence and then suspends the operation of it. It means that the judge releases the prisoner, upon his signing a recognizance with certain conditions which must be observed, and suspends passing sentence. If the prisoner breaks any of the conditions contained in the recognizance he may be brought up and sentenced. Before this is done however an information must be sworn out charging the accused with a breach of the conditions. He cannot legally be brought up in any other way.

RAILWAYS

1. Obstructions with intent to injure passengers.
2. Endanger safety of persons by unlawful act.
3. Obstructions without intent.
4. Obstructing railway service.
5. Railway Act offences:
   (a) trespassing.
   (b) sending explosives.
   (c) breaking gates, etc.
6. False tickets.
7. Official not collecting fares.

See also "MISCHIEF."

1. With intent to injure or endanger the safety of person travelling, puts any obstruction across tracks, removes any track, signal, etc., turns any point, etc., makes any signal or in any other manner; or throws anything at a tender, carriage, etc.

Code, s. 282. Indictable.

A.B., at , on , did unlawfully put or throw a piece of wood (OR AS THE CASE MAY BE) *upon and across a certain railway track of the Canadian National Railway* (OR AS THE CASE MAY BE) *with intent to injure or endanger the safety of the* *persons travelling or being upon the said railway contrary to section 282(a) of the Criminal Code.*

(FOR OTHER OFFENCES USE THE ABOVE FORM BUT CHANGE TO THE CORRECT WORDS UNDER THE CLAUSE DESIRED.)

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—The gist of this offence is the intent to injure or endanger the safety of persons and must be proved or may be inferred from the circumstances. If a person knows that a fast passenger train passes at a certain time and wilfully places a tie across the tracks it is submitted the intent to injure will be inferred.

2. ENDANGERING SAFETY OF PERSONS on the railway by any unlawful act, or by wilful neglect of duty.

Code, s. 283. Indictable.

A.B., at , on , being a brakeman on the railway by a wilful omission and neglect of his duty, to wit, by wilfully omitting to replace a switch which it was his duty to replace did thereby endanger the safety of persons being conveyed or being upon the said railway (OR AS THE CASE MAY BE) *contrary to section 283 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—It would appear that one of three things must be proved (1) an unlawful act, or (2) a wilful omission, or (3) a neglect of duty. See section 247 as to duty of persons in charge of dangerous things.

3. IN A MANNER LIKELY TO ENDANGER property but not persons, placing obstructions on tracks, shooting or throwing at trains, interfering with signals, etc., or omission of duty.

Code, s. 517. Indictable.

A.B., at , on , in a manner likely to cause danger to valuable property, to wit an engine and train of cars did remove a piece of rail from the road belonging to the Canadian National Railway (OR INSERT ANY OTHER OFFENCE DISCLOSED IN THE SECTION) *contrary to section 517 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—It is unnecessary to show any intent but if intent to injure property is charged it should be inserted in the information.

4. OBSTRUCTING OR INTERRUPTING RAILWAY SERVICE, by any act or wilful omission.

Code, s. 518. Indictable.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Causing a train to slacken speed by making signals has been held to be an offence; or switching a train to a wrong track.

Other damage to railway see "DAMAGE."

5. RAILWAY ACT, R.S.C. 1927, CHAPTER 170 (partial list of offences). (a) Trespassing upon the railway tracks or yards of the company.

Section 408. Summary Conviction.

A.B., at , on , not being connected with the railway or employed by the company, did trespass upon the tracks (OR *the yard*) *of the Railway Company, contrary to the provision of the Railway Act, section 408.*

WARRANT TO ARREST IS NECESSARY.

(b) Sending explosives by railway, without marking the contents on the outside of the package.

Section 432. Indictable.

WARRANT TO ARREST IS NECESSARY.

(c) Wilfully breaking down or injuring any gates, fences, or buildings, etc.; removing, obliterating and defacing any written notices or posters affixed to railway property; entering upon a railway train with intent fraudulently to be carried without paying a fare; wilfully obstructing an officer or agent of the company in his duty, or trespassing upon buildings or property of the company by occupying the same.

Section 443. Summary Conviction.

WARRANT TO ARREST IS NECESSARY.

6. FALSE TICKETS, badges, etc., obtaining passage on any railway, tram or vessel.

Code, s. 412(1). Indictable.

A.B., at , on , did obtain (OR *attempt to obtain*) *passage on a train of the Canadian National Railway* (OR AS THE CASE MAY BE) *by means of a false ticket* (OR *badge* OR *order*) *contrary to section 412(1) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

7. OFFICIAL NOT COLLECTING FARES, or collecting less than the proper fare, or gives or offers to any official any valuable consideration for not collecting or collecting less than the proper amount.

Code, s. 412(2). Indictable.

A.B., at , on , being then a conductor on the Railway did wilfully neglect to collect any fare (OR *did collect less than the proper amount* OR *did accept the sum of two dollars for omitting to collect a fare*) *from C.D. contrary to section 412(2) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

RAPE

See "CARNAL KNOWLEDGE."

REAL ESTATE, FRAUDULENT SALE OR MORTGAGE

See "FRAUD."

REAL ESTATE

Person in possession of house or building on land subject to a mortgage or held for a term of years or at will wilfully and

to the prejudice of the mortgagee or owner pulls down any part of buildings or fixtures.

Code, s. 529. Indictable.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—See definition of wilfully under "ARSON" and sec. 509. The act must be done without legal justification or excuse and without colour of right.

RECEIVING

1. Stolen goods, etc.
2. Post letters, etc.
3. Goods obtained by summary conviction offence.

1. RECEIVING STOLEN GOODS, or goods obtained by crime committed anywhere.

A.B., at , on , did receive (OR *retain in his possession*) *one horse* (OR STATE THE ARTICLE) *the property of C.D. and which had been theretofore obtained by one E.F.* (OR A PERSON UNKNOWN) *by an offence punishable on indictment, to wit: theft* (OR STATE THE CHARGE) *the said A.B. then knowing the said horse to have been so obtained contrary to section 399 of the Criminal Code.*

Code, s. 399. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

2. RECEIVING POST LETTERS, CHATTELS, MONEY, ETC., FROM THE MAIL.

Code, s. 400. Indictable.

WARRANT TO ARREST IS NECESSARY.

Information as in No. 1 above.

This section is taken from the Post Office Act and although it appears broad enough to cover all thefts it should be limited to charges of receiving goods stolen under sections 364, 365 and 366 which were also at one time in the same Act. Section 399 above covers receiving any stolen property.

3. RECEIVING anything the stealing of which is a summary conviction offence.

Code, s. 401. Summary Conviction.

A.B., at , on , did receive (OR *retain in his possession*) *one* (STATE THE ARTICLE) *the property of C.D. which had been obtained by one E.F. by an offence punishable on summary conviction, to wit by theft, the said A.B. knowing it to have been stolen contrary to the Criminal Code, section 401.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—"Receiving" and "retaining" are different offences. It must be proved that the goods were stolen or obtained by another offence. The same person cannot be guilty of stealing the article and receiving it unless he parted with possession of it. Concealing the goods or aiding in disposing of them constitute the offence (Code, s. 402). Other acts of receiving within twelve months may be proved against the accused (Code, s. 993-4). If two or more persons are charged jointly, one may be convicted, section 954.

RECOGNIZANCE TO KEEP THE PEACE

See "BINDING OVER."

RELIGIOUS WORSHIP

RELIGIOUS WORSHIP, wilfully disturbing or interrupting by profane discourse or by rude or indecent behaviour or noise within or without the building.

Code, s. 201. Summary Conviction.

A.B., at , on , did wilfully disturb (OR *interrupt*, OR *disquiet*) *an assemblage of persons met together at , for religious worship* (OR *for moral* OR *social* OR *benevolent purposes, by profane discourse (or describe) within the said building* (OR *so near the said place of meeting as to disturb the order or solemnity of the said meeting contrary to the Criminal Code, section 201.*

WARRANT TO ARREST IS NECESSARY.

REPORTS

Reports of investigations, arrests, inquests or accidents should be typed or where that is impossible should be carefully written on one side only of the paper. The reports should be numbered to show whether it is the first, second or final report, or possible first and final report. Leave a wide margin on the left and arrange the paragraphs under sub-headings, noting the heading in the margin, such as is done in the marginal note of statutes. Slang terms and abbreviations should not be used unless to quote exact words. When quoting exact words put the words in "inverted commas" and indent the statement. The heading should indicate the post or detachment to which you are attached and the signature should show the rank of person making the report. Reports should indicate the exact place, the time, what occurred, and in cases of injury in which an automobile is involved, should show the condition of the roadway and of the weather, also whether it was light or dark and if visibility was good. In the case of an arrest or conviction the report should give the full name, with aliases, the age, nationality, black or white, the offence, and the penalty imposed.

RESCUE OF PRISONERS

See "ESCAPES, 7."

REWARDS, CORRUPTLY TAKING

See "COMPOUNDING OFFENCES."

RIOTS

See "UNLAWFUL ASSEMBLIES."

ROBBERY

1. Generally.
2. Assault with intent.
3. Mails.

1. Robbery, is theft accompanied by violence or threats of violence (Code, s. 445).

Code, s. 446 and 447. Indictable.

A.B., at , on , rob one C.D. of the sum of ten dollars and at the time thereof did beat, strike and use personal violence to the person of the said C.D. contrary to section 446(a) of the Criminal Code.

OR

A.B. and E.F., at , on , being together did rob (OR *assault with intent to rob*) *one C.D. of the sum of ten dollars contrary to section 446(b) of the Criminal Code.*

OR

A.B., at , on , while armed with an offensive weapon, to wit a pistol, did rob (OR *assault with intent to rob*) *one C.D. of the sum of ten dollars contrary to section 446(c) of the Criminal Code.*

OR

A.B., at , on , did steal from C.D. the sum of with violence (OR *threats of violence* DESCRIBING) *to the person* (OR *property*) *of the said C.D. contrary to section 447 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

2. ASSAULT WITH INTENT TO ROB.

Code, s. 448. Indictable.

A.B., at , on , did assault one C.D. with intent to commit robbery contrary to section 448 of the Criminal Code.

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—A presumption arises from recent possession of stolen goods. In robbery force or threats of force is a necessary ingredient. Snatching property from the person is not theft unless there is an injury done or a struggle for possession. It is not necessary that the thing stolen be actually taken from the person, if it is taken from his presence by violence or threats of violence. In assault with intent to rob it is usual to prove robbery with the exception of the carrying away. It would seem that it is unnecessary to prove actual violence because an assault is an attempt to commit a forcible crime on another; pointing a gun with intent to rob is punishable as robbery under sec. 446(c). If one of a number is armed they may all be charged with armed robbery.

3. STOPPING A MAIL WITH INTENT TO ROB.

Code, s. 449. Indictable.

A.B., at , on , did stop a certain mail, to wit, (*a mail coach on the C.N.R.* OR *a wagon used to collect mail from mail boxes* AS THE CASE MAY BE) *with intent to rob* (OR *search*) *the same contrary to section 449 of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—A mail includes every conveyance by which letters are carried by land or water (see Post Office Act). The charge in connection with mailable matter may describe the article as being the property of the Postmaster General (sec. 869). Place of trial, sec. 584(c).

See "THEFT" and "FORCE COMPELLING EXECUTION OF DOCUMENTS."

SALE OF PROPERTY

Seller or mortgagor of land or other property, or the solicitor or agent of such seller, and having been served with a written demand of an abstract of title before the completion of the transaction, conceals any deed, will or encumbrance, or falsifies a pedigree upon which title depends, with intent to defraud and to induce the purchaser to accept the title.

Code, s. 419. Indictable.

A.B., at , on , being the seller (OR *mortgagor* OR SOLICITOR OR AGENT OF ONE C.D. THE SELLER OR MORTGAGOR) *of lot No. , Plan , street, city of , county of ,* (OR *describe the thing*) *having been served with a written demand of an abstract of title by or on behalf of* *one E.F. the purchaser* (or *mortgagee*) *before the completion of the purchase* (or *mortgage*) *did conceal a settlement* (or *deed* or *will* or *mortgage* or name the instrument) *material to the title of the above property* (or *did falsify the pedigree upon which the title depends*), *by* (describe the means) *with intent to defraud and to induce the purchaser* (or *mortgagee*) *to accept the title offered or produced to him contrary to section 419 of the Criminal Code.*

Warrant to arrest is necessary.

Consent of the Attorney-General is necessary given after previous notice to the person to be prosecuted of the application to the Attorney-General of such application being made (sec. 597).

It is submitted that a police officer should not initiate proceedings under this section but should permit the private party aggrieved to do so.

SANDSUCKERS

See "Harbour."

SEAMEN'S PROPERTY

1. Buying, keeping, etc., from any person seaman's property, or sells the same for any seaman.

Code, s. 440. Indictable or Summary Conviction at Crown's option.

A.B., at , *on* , *knowingly bought* (or *received* or, *as set out in the section*) *from C.D., a seaman* (or *from an unknown seaman*) *certain seamen's property, to wit* (*state the articles*) *the same not having been sold by order of the Admiralty or Commander-in-Chief, contrary to the Criminal Code, section 440.*

Warrant to arrest is necessary.

2. Having seaman's property without lawful excuse.

Code, s. 441. Summary Conviction.

Warrant to arrest is necessary.

Evidence.—Seaman is defined in section 335(t), seaman's property is defined in section 335(u).

SEARCH

1. Generally.
2. Beyond the jurisdiction.
3. Report to justice.
4. For public stores.
5. For ore.
6. For timber.
7. Houses of ill-fame.
8. Disorderly houses.
9. Powers of justice.
10. For vagrants.
11. Cattle during conveyance.
12. Of person for firearms.
13. For opium.
14. Firearms or liquor under Part III.
15. For deserters.
16. For unlawful associations.

1. Any justice of the peace or magistrate may issue a search warrant based upon an information upon oath, to search any place. It must be executed by the officer or class of officer to whom it is addressed. The particular place to be searched must be stated and described as accurately as possible in both information and warrant. The officer must state his grounds, which must be reasonable, for believing that the things sought are in the place named, *and* that such things are,

(a) something upon or in respect of which a crime has been committed or is suspected to have been committed, or

(b) something that will afford evidence of such crime, or

(c) something which is intended to be used for an offence against the person where an arrest without warrant is permissible. Code, s. 629(1).

As the information is very important, it being the foundation for the warrant, an example is given:

Information for Search Warrant.

Canada
Province of
County of

The information of A.B., of in the said county, police sergeant, taken this day of , 1931, before me, the undersigned the said A.B. says that books of account, correspondence, and records of every description are being sought on the ground that they will afford evidence that X.Y. in the year 1931, in the county of did steal the sum of $1,000 from the Bank of Nova Scotia, contrary to the Criminal Code, and that he has reasonable grounds for believing that the said things are concealed in the premises occupied by X.Y. at 56 Menin Boulevard, in the City of , in the said County, and that the said things will afford evidence of the said offence, such grounds being as follows:

The said A.B. was informed by an officer of the said Bank that certain records of the Bank were taken by X.Y. to his own home to work upon, the night before the theft was discovered, and that these records relate to the said charge. (If it is advisable to keep the identity of the informant secret, he may be referred to as "a person whose name, for reasons of public policy, cannot be disclosed.")

Wherefore A.B. prays that a search warrant may be granted to him and to all other police constables, to search the said premises for the said things.

Sworn before me the day
and year first above mentioned.

....
Informant.

A Police Magistrate
in and for the County
of

Search Warrant.

Canada,
Province of
County of

To A.B. and the peace officers in the said County.

Whereas it appears on the oath of A.B. of , in the said county, police sergeant, that there are reasonable grounds for believing that books of account, correspondence and records of every description are being sought on the ground that they will afford evidence that X.Y. in the year 1931, in the County of , did steal the sum of $1,000 from the Bank of Nova Scotia, contrary to the Criminal Code, and are concealed in the premises occupied by X.Y. at 56 Menin Boulevard, in the City of , in the said county, and that the said things will afford evidence of the said offence.

This is, therefore, to authorize and require you between the hours of 6 a.m. and 9 p.m. to enter into the said premises and to search for the said things and to bring the same before me or some other justice.

Dated at , this day of , 1931.

....
A Police Magistrate, etc.

The justice may authorize the execution of the warrant by night, i.e., between 9 p.m. and 6 a.m. (Code, s. 2 (24)), and unless he does it may only be executed by day. Search may be made on a Sunday (Code, s. 661 (3)) in respect of a criminal offence. The justice may set a time limit for the execution of the warrant, otherwise it must be executed within a reasonable time, a few days.

The officer must have the warrant when he executes it and produce it if required. After demanding admittance, stating who he is and that he has a search warrant, he may break open doors or otherwise force his entrance in a manner that is reasonable.

2. A search warrant for premises beyond his jurisdiction, even in another province, may be issued by a justice, which may be executed when endorsed or "backed" by a justice who has jurisdiction over the place to be searched (Code, s. 629 (2). The officer taking the warrant to be endorsed must be able to prove the handwriting of the justice who issued it, and preferably should have seen it signed.

A justice may also issue a search warrant in respect of things suspected to be in premises within his jurisdiction which may afford evidence of a crime committed in another county or province, the courts taking the view that the machinery for the administration of justice should cooperate throughout Canada.

In these cases it is better to bring the things seized before the justice having jurisdiction in the territory where they were found, and have him make a written order that they be taken or sent to the justice seized of the case in the other county or province.

3. After the officer has completed his seizure, he should make, in triplicate, a list of the things seized, leaving a copy, by way of a receipt, at the premises searched, keeping a copy for his own records, and attaching the other to the warrant when he makes his return and brings the things seized before a justice. This he should do within a reasonable time after the seizure, a few days. The justice may detain them (Code, s. 631) or order that they be kept in the custody of the officer, or some accountant or law officer of the Crown. A written order of this nature is preferable in order to protect the person who is to have the custody of them.

In case the identity of things seized should become an issue, the constable who made the seizure should make a note of any peculiarity regarding the things seized, and in the case of documents it is well to initial them to make identification easy afterwards. To protect himself he should obtain a receipt from the person in whose custody they are placed.

4. A department of the Government of Canada may depute in writing a peace officer to search for public stores without a warrant (Code, s. 636).

5. A person interested in a mining claim may lay complaint before a justice for a search warrant for gold or silver ore; the warrant may include any number of places or persons (Code, s. 637).

6. A peace officer may search without a warrant for timber unlawfully detained, without a warrant (Code, s. 638).

7. Searching houses of ill-fame for girls enticed for immoral purposes may be done on warrant and doors may be broken open. The girls, if found, should be brought before the justice (Code, s. 640).

8. Disorderly houses and opium joints may be searched on the order of the mayor or chief magistrate. The officer must make a written report to the mayor or magistrate before the order can be issued. This order may be given in the cases of bawdy-houses, gaming-houses, betting-houses or any place where a lottery is carried on contrary to section 236 or any betting or pool selling contrary to section 235. Gaming machines and instruments and money may be seized. The following is a sample report and order, which may be both on the same sheet of paper.

John Jones, Esquire,
Police Magistrate (OR Mayor).
Sir:—

Pursuant to the provisions of section 641 (1) of the Criminal Code, I beg to report that there are good grounds for believing and I do believe that house No. (fill in the number and street name) in the City of ...., is kept or used as a disorderly house, to wit, a common gaming-house (OR as the case may be). I therefore request an order from you authorizing me to search the said premises.

Dated at ...., 4th of February, 1931.

John Doe,
Chief Constable in and for the
City of..........

Order for Search.

Pursuant to the provisions of the Criminal Code, section 641, and to the report in writing made to me by John Doe, Chief Constable of the City of ...., I hereby authorize the said John Doe to enter upon and search premises No. (insert number and street) Street in the said City of ...., between the hours of 10 p.m. on 4th February 1931, and 6 a.m. on 5th February, 1931 with such other peace officers as he may deem necessary.

John Jones,
Police Magistrate in and for
the City of ....

9. The justice may order the forfeiture to the Crown of moneys seized and the destruction of things found under the order (Code, s. 641 (2)), and may examine under oath persons found on the premises and brought before him. (Code, s. 642.)

10. A police magistrate or two justices or a mayor, etc., upon information may issue a warrant to search any place for vagrants and bring them before any justice (Code, s. 643).

11. Without a warrant a peace officer may enter premises where cattle are kept during conveyance. (Code, s. 545.)

12. Without a warrant a peace officer may search any person for firearms (Code, s. 118 (6)).

13. Searches for drugs, see "Opium and Narcotic Drugs."

14. Searches for firearms and intoxicating liquor, under Part III of the Code, see sections 608-622.

15. Searches for deserters are provided for in Code, s. 657 (2).

16. Searches for unlawful associations. (Code, s. 98 (6)).

SECOND CONVICTION

Second conviction must be charged in the information if it is desired that the punishment be increased as for a second or subsequent offence. The ordinary form of information is used with the following addition: "The said A.B. having been previously convicted at , on , that he did at , on , (*state the offence*). See section 851.

SECRET COMMISSIONS

See "Bribery and Corruption, 3."

SEDITIOUS OFFENCES

1. Administering oath to commit crime.
2. Oath to engage in seditious purpose.
3. Speaking seditious words.
4. Seditious libel.
5. Publishing false news.
6. Unlawful associations.
7. Seditious books.

1. Administering oath binding any person to commit crime which is punishable by death or imprisonment for more than five years; or consenting to; or attempting to induce or compel; or takes such an oath.

Code, s. 130. Indictable.

*A.B., at , on , did * administer* (or *was present and consented to the administration of*) *an oath* (or *any engagement*) *purporting to bind one C.D.* (or *some person unknown*) *to commit the crime of , contrary to the Criminal Code, section 130(a).*

or

* *Attempt to induce* (or *compel*) *one C.D. to take an oath, etc.*

or

* *Take an oath, etc.*

Warrant to arrest is not required.

2. ADMINISTERING or consenting to an oath binding anyone to engage in any mutinous or seditious purpose to disturb the peace or commit any offence; not to inform or give evidence against any associate; not to reveal any unlawful combination or illegal act; attempting to induce any person to take such oath; or who takes any such oath.

Code, s. 131. Indictable.

A.B., at , on , did administer (OR *was present at and consenting to the administration of*) *an oath* (OR *engagement*) *purporting to bind one C.D.* (OR *a person unknown*) *to* (HERE SET OUT THE OFFENCE IN THE TERMS OF THE CLAUSE WITH PARTICULARS) *contrary to the Criminal Code, section 131* (*clause*).

WARRANT TO ARREST IS NOT REQUIRED.

EVIDENCE.—Any person who acts under such compulsion as would excuse him is not excused unless he declares what he knows and the persons who were concerned in the offence, within fourteen days after the offence unless hindered by sickness in which case it may be made within eight days of the cessation of such illness (sec. 132).

3. Speaking seditious words or publishing seditious libel or being a party to a seditious conspiracy.

Code, s. 134. Indictable.

A.B., at , on , did speak seditious words, to wit (*set out the words*) (OR *did publish a seditious libel, to wit,* SET OUT THE ARTICLE OR *did conspire with one C.D. to* SET OUT THE SEDITIOUS INTENTION) *contrary to the Criminal Code, section 134.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Seditious words are words expressive of a seditious intention; a seditious libel is a libel expressive of a seditious intention; a seditious conspiracy is an agreement between two or more persons to carry into execution a seditious intention (sec. 133). No one is deemed to have a seditious intention because he intends in good faith to show that His Majesty is misled; to point out errors or defects in government; to point out in order that they may be removed, matters which are producing ill-will or hatred between the subjects of the country (sec. 133A: 1930, chap. 11, s. 2). A good definition of a seditious intention is found in the English draft Criminal Code, in part it is "an intention to bring into hatred or contempt or to excite disaffection against the King, or the administration of justice or to excite the people to attempt to procure changes in the law otherwise than by lawful means or to promote feelings of ill-will and hostility between different classes of His Majesty's subjects."

4. Publishing a libel, without lawful justification, tending to degrade, revile or expose to hatred and contempt in the estimation of the people of any foreign state, any prince exercising authority over such state.

Code, s. 135. Indictable.

WARRANT TO ARREST IS NECESSARY.

5. Publishing false news whereby injury or mischief is likely to be occasioned to any public interest.

Code, s. 136. Indictable.

A.B., at , on , did wilfully and knowingly publish false news, to wit (SET OUT) *whereby injury or mischief was* (OR *was likely to be*) *occasioned to the public interest, contrary to the Criminal Code, section 136.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—This is an old common law offence; prosecutions are rare. A placard published stating that settlers from United States are not wanted in Canada was held to be an injury to the public interest under this section.

6. UNLAWFUL ASSOCIATIONS is any association whose purpose is to bring about by use of force any government, industrial or economic change in Canada, or which teaches, advocates or defends such force. Any property of such association may be seized without warrant by any person authorized to do so by the Commissioner of R.C.M.P. Any officer of such an association or any member who contributes dues or person who speaks, writes or publishes anything as representative is guilty of an offence.

Any owner, lessee or agent of any building, rooms, etc., who knowingly permits the use of such place by any such association is guilty of an offence.

Code, s. 98. Indictable. The section does not prescribe the mode of trial therefore it is indictable. Summary conviction being a statutory procedure.

A.B., at , *on* , *did act as an officer of an unlawful association* (OR *speak at a meeting in* OR *write an article in* *paper published at* *as representative of an unlawful association* OR *wear upon his person a badge intended to show or suggest that he is a member of an unlawful association* OR *pay dues* (OR *solicit subscriptions or contributions to an unlawful association*) *contrary to the Criminal Code, section 98(3)*

OR

being the owner (OR *lessee* OR *agent* OR *superintendent*) *of a building* (OR *describe the place*) *did knowingly permit a meeting of an unlawful association* (OR *a branch* OR *committee of an unlawful association*) *contrary to the Criminal Code, section 98(5).*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—If a person is proved to have attended meetings of an unlawful association or spoken publicly in support of it or circulated literature he is presumed to be a member of the association (ss. 4). Search warrant under this section (ss. 6). Proof must be made that the association advocates violence to effect the change.

7. SEDITIOUS BOOKS, ETC., printing, distributing, etc., any book or document of any kind advocating or defending of force, terrorism or violence to effect governmental, industrial or economical change; or who mails the same; or who imports into Canada:

Code, s. 98(8). Indictable.

A.B., at , *on* , *did print* (OR *publish* OR *edit* OR *issue* OR *circulate* OR *sell* OR *offer for sale* OR *distribution*) *a book* (OR OTHER PUBLICATION, NAMING IT) *advocating* (OR *defending*) *without authority of law, the use of force, violence, terrorism or physical injury to person and property as a means of accomplishing a change in government* (OR *an industrial* (OR *economic*) *change*) *contrary to the Criminal Code, section 98(8)*

OR

did circulate (OR *attempt to circulate*) *a book* (OR OTHER PUBLICATION NAMING IT) *by posting the same in a mail box, advocating* (OR *defending*) (CONCLUDE AS ABOVE) (*ss. 9*).

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The publication must advocate some form of violence to effect the change and the words should be definite.

SEDUCTION

1. Of girl between 16-18.
2. Under promise of marriage.
3. By step-parent or guardian.
4. Of employee.
5. Of passenger on vessel.

See also "CARNAL KNOWLEDGE," "PROCURING."

1. OF GIRL BETWEEN 16 AND 18 of previously chaste character by anyone over eighteen years of age.

Code, s. 211. Indictable.

A.B., at , *on* , *then being over the age of eighteen years did seduce one C.D., a girl of previously chaste character of or above the age of sixteen years and under the age of eighteen years, she not being his wife, contrary to section 211 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The evidence must be corroborated (sec. 1002). The burden of proving previous unchastity is upon the accused (sec. 210). Proof that the girl has had previous connection with the accused is not evidence of previous unchastity (s. 211(2)). See heading "CHASTE CHARACTER." Proof of age, sec. 984. Seduction as used in these sections means a surrender by a girl of her chastity because of some art, influence or deception. Limitation is one year.

2. UNDER PROMISE OF MARRIAGE of an unmarried female under twenty-one years of previously chaste character by anyone above the age of twenty-one years.

Code, s. 212. Indictable.

A.B., at , on , being over the age of twenty-one years did under promise of marriage seduce and have illicit connection with C.D., an unmarried female of previously chaste character under the age of twenty-one years, contrary to section 212 of the Criminal Code.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Corroboration is needed (sec. 1002). See remarks under No. 1. It is necessary that the woman relied upon the promise of marriage and that it was not a conditional promise upon the event of pregnancy. Subsequent marriage of the parties is a defence (sec. 214(2)). Limitation is one year.

3. BY STEP-PARENT OR GUARDIAN, upon his step-child or ward.

Code, s. 213(a). Indictable.

A.B., at , on , then being the step-parent (OR *foster-parent* OR *guardian) of C.D., a female, did seduce* (OR *have illicit connection with) the said C.D., his step-daughter* (OR *ward) contrary to section 213(a) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Corroboration required (sec. 1002). It is not necessary to prove previous chastity nor age. The sexual intercourse is an offence in itself irrespective of seduction. See remarks under No. 1. Limitation is one year.

4. OF FEMALE EMPLOYEE of previously chaste character under the age of twenty-one years.

Code, s. 213(b). Indictable.

A.B., at , on , did seduce (OR *have illicit connection with) C.D., a woman under the age of twenty-one years of previously chaste character, and who was then in the employment of the said A.B., in his factory* (OR *office* OR *store) contrary to section 213(b) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Corroboration required (sec. 1002). Remarks under No. 1 apply. Subsequent marriage between the parties is a defence, sec. 214(2). Limitation is one year.

5. OF FEMALE PASSENGERS by master or officer, in any water within Canada, under promise of marriage, or by threats, exercise of authority or gifts.

Code, s. 214. Indictable.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Corroboration required (sec. 1002). Age or previous chastity are not elements in the charge. Subsequent marriage of the parties is a good defence.

See "CARNAL KNOWLEDGE" and "PROCURING."

SELF-DEFENCE

This is a good defence to a charge of crime provided no more violence is used than is necessary for self-preservation. A person attacked may do more than ward off the blow, he may strike back, but an attacked person would not be justified in using a knife against an unarmed assailant. A person is likewise permitted to use force to resist the taking unlawfully of things legally in his possession.

SELLING APPOINTMENTS TO OFFICE

See "BRIBERY, 6 and 7."

SENTENCE

See "Punishment."

SEXUAL VERILITY

Sexual virility, advertising instructions to restore, see "Obscene books and pictures."

SIGNALS

Signals, interfering with marine signals or mooring vessel to buoy or signal, see "Shipping."

SHIPPING

1. Casting away a ship.
2. Attempting.
3. Prevent saving of ship in distress.
4. Prevent saving of wreck.
5. Selling a wreck illegally.
6. Sending out unseaworthy ship.
7. Taking out unseaworthy ship.
8. Impeding ship-wrecked person.
9. Altering signals.
10. Fastening ships to signal buoy.
11. Defacing marks on a wreck.

Damage to ships, etc., see "Mischief."

1. Casting away or destroying a ship, complete or unfinished; or does any act tending to loss of a ship in distress; or interferes with marine signal or exhibits false signal with intent to bring a ship into danger.

Code, s. 522. Indictable.

Warrant to arrest not required.

2. Attempting to cast away or destroy any finished or unfinished ship.

Code, s. 523. Indictable.

Warrant to arrest not required.

3. Impeding or attempting to prevent the saving of any stranded, abandoned or ship in distress; or any person attempting to save such ship.

Code, s. 524. Indictable.

Warrant to arrest is necessary.

4. Impeding or attempting to prevent the saving of any wreck.

Code, s. 524(2). Indictable or summary conviction at the option of the Crown.

Warrant to arrest is necessary.

5. Selling any vessel or wreck within Canada, not having title thereto.

Code, s. 429. Indictable.

Warrant to arrest is necessary.

6. Sending or attempting to send unseaworthy ship to sea (or any inland water) is ship is registered in Canada and if for any reason the life of any person is likely to be endangered.

Code, s. 258. Indictable.

Consent of minister of marine necessary to prosecution (s. 594).

Warrant to arrest is necessary.

7. Master of a ship registered in Canada knowingly takes his ship to sea (or on inland waters) in an unseaworthy state, so that the life of any person is likely to be in danger.

Code, s. 289. Indictable.

Warrant to arrest is necessary.

8. Impeding or attempting to prevent any shipwrecked person in his endeavor to save his life; or any person in the attempt to save the life of a shipwrecked person.

Code, s. 286. Indictable.

A.B., at , on , did prevent or impede (OR *endeavor to prevent or impede*) *C.D., a shipwrecked person, in his endeavor to save his life* (OR *did without reasonable cause prevent or impede* (OR *endeavor to prevent or impede*) *C.D., in his endeavor to save the life of E.F., a shipwrecked person*) *contrary to the provisions of the Criminal Code, section 286.*

WARRANT TO ARREST NOT REQUIRED.

9. Altering or concealing or removing any signal or buoy wilfully.

Code, s. 526. Indictable.

WARRANT TO ARREST NOT REQUIRED.

10. Fastening any vessel or boat to any marine signal or buoy.

Code, s. 526. Summary conviction.

WARRANT TO ARREST NOT REQUIRED.

11. Secreting, defacing marks or concealing the fact of a wreck from any person entitled to inquire; receiving any wreck from a person not the owner and failing to report; selling or offering for sale a wreck not having lawful title; keeps any wreck in his possession without lawful title; boards any wreck against the will of the master.

Code, s. 430. Indictable or summary conviction at the option of the Crown.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Wreck includes cargo, stores, tackle of any vessel and parts of a vessel and property of any shipwrecked person (Code, s. 2(44)), shipwrecked person defined (s. 2(36)), see section 541. See also "MISCHIEF," "ARSON."

SHIPWRECK

See "SHIPPING."

SHOOTING AT THE KING'S VESSELS

SHOOTING AT THE KING'S VESSELS, or vessels in the service of Canada.

Code, s. 275(a). Indictable.

WARRANT TO ARREST IS NECESSARY.

A.B., at , on , did shoot at a vessel belonging to His Majesty, to wit (name the vessel) contrary to section 275(a) of the Criminal Code.

EVIDENCE.—Prove that the vessel is His Majesty's and that a shot was fired by the accused.

SHOOTING WITH INTENT

See "WOUNDING WITH INTENT."

SHOP-BREAKING

See "BURGLARY, 4."

SODOMY

See "BUGGERY."

SPRING-GUNS

See "TRAPS."

SPYING

For the purpose of wrongfully obtaining information enters a fortress, arsenal, etc., or obtains plans, sketches or documents, or makes a sketch unlawfully or unlawfully communicates or plans.

Code, s. 85. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

The consent of the Attorney-General for Canada is required to prosecute under this section.

2. Communicating information or plans or sketches acquired while holding office under His Majesty.

Code, s. 86. Indictable.

Warrant to arrest is not required.

The consent of the Attorney-General for Canada is required to prosecute under this section.

The holder of any contract is covered by this section.

STOLEN PROPERTY

Stolen property, bringing into Canada, see "Theft."

STRANGLING

See "Assault."

SUICIDES

1. Counselling. 2. Attempting.

1. Suicides, counselling or procuring person to commit suicide actually committed, or aids or abets a suicide.

Code, s. 269. Indictable.

A.B., at , on , did counsel (or *procure* or *aid* or *abet*) *one C.D. to commit suicide actually committed contrary to section 269 of the Criminal Code.*

Warrant to arrest is necessary.

Evidence.—Under the common law two persons agreeing to commit suicide and only one died the survivor was guilty of murder. The above section changes the law. It is the same with aiding or abetting.

2. Attempting suicide.

Code, s. 270. Indictable.

A.B., at , on , did attempt to commit suicide contrary to section 270 of the Criminal Code.

Warrant to arrest is not required.

SUMMARY CONVICTION

This is an offence declared in the section creating the offence to be triable on summary conviction, i.e., before a magistrate or magistrates. Unless otherwise stipulated in the section only one justice is required. In Ontario, however, a provincial statute requires that all summary conviction offences in the Code be tried by a police magistrate.

SUMMARY TRIAL

This is the procedure laid down in Part XVI of the Code whereby certain magistrates and other functionaries are given power to try (usually with the consent of the accused) persons charged with indictable offences. The offence is still an indictable offence even though tried by the magistrate.

SUMMONS

A summons is an order to the person to whom it is addressed to appear before a court at the time therein specified to answer the charge set out (Code, s. 658). It is obtained from a justice or magistrate after complaint or information. The complaint must be on oath if the offence is indictable (Code, s. 654). In a summary conviction matter the complaint need not be under oath (Code, s. 710)). In indictable cases the summons may be served personally on the accused or left for him at his last or most usual place of abode with some person apparently not under sixteen years of age (Code, s. 658(5)). This method of service also applies to summary conviction cases (Code, s. 711).

If a summons after service is disobeyed, or if the accused cannot be served, a warrant to arrest may be issued (Code, s. 660(5)).

A summons against a corporation is served on the mayor, or chief officer or upon the clerk or secretary or like officer (Code, s. 720(2) and s. 782). Summonses to witnesses, see "Witness."

SUNDAY

A complaint may be laid on Sunday and a warrant issued and executed on that day (Code, s. 661(3). An arrest for non-payment of a fine may be bad unless provision is made in the statute creating the offence for arrests on Sunday or unless the above section of the Code is made to apply. See Lord's Day Act.

SUSPENDED SENTENCE

See "PUNISHMENT."

TELEGRAMS

1. Sending in false name. 2. Sending false news.

1. TELEGRAMS, SENDING IN FALSE NAME, with intent to defraud.

Code, s. 475. Indictable.

A.B., at , on , did with intent to defraud, cause (OR *procure*) *a telegram to be sent to one C.D. signed by the name of one E.F., requesting the delivery of $* (OR AS THE CASE MAY BE) *he the said A.B. well knowing the said telegram was not sent by the authority of the said E.F., contrary to section 475 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—It appears that a telegram sent in one province for delivery in another province the prosecution may take place in either one.

2. TELEGRAM WITH FALSE NEWS, with intent to injure or alarm.

Code, s. 476. Indictable.

A.B., at , on , did send (OR *cause to be sent* OR *procure to be sent*) *a telegram* (OR *letter* OR *message*) *to one C.D., advising of an injury to E.F., his son* (OR AS THE CASE MAY BE) *he the said A.B., knowing it to be false and with intent to alarm* (OR *injure*) *the said C.D., contrary to section 476 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Prove the telegram or letter; that it was sent by the accused or that he caused or procured it to be sent; that the news is false.

TELEGRAPH, FIRE ALARMS OR ELECTRIC TRANSMISSION WIRES

TELEGRAPH, FIRE ALARMS OR ELECTRIC TRANSMISSION WIRES, destroying, damaging anything which forms part of the above; or preventing or obstructing of any message sent by means of one of them.

Code, s. 521. Indictable.

A.B., at , on , did wilfully without legal justification or excuse and without colour of right destroy (OR *remove* OR *damage*) *the wires (or describes the parts) of a fire alarm* (OR *electric light* OR *telephone* OR *telegraph by (describe the act and the name of the company)) contrary to the Criminal Code, section 521.*

WARRANT TO ARREST NOT REQUIRED.

The attempt is punishable on summary conviction (Code, s. 521(2).

EVIDENCE.—It is not an offence unless done without legal justification or excuse and without colour of right (s. 541). The act is done wilfully if the accused knew his act would probably cause it, being reckless whether the event happens or not (Code, s. 509).

THEFT

1. Defined.
2. Theft by killing living animals.
3. Theft by owner.
4. Theft of electricity.
5. Theft by partner in mining claim.
6. Theft by husband or wife.
7. Theft by person required to account.
8. Theft by clerk or servant.
9. Theft by tenant.
10. Theft of wills, etc.
11. Theft of documents of title.
12. Theft of judicial or official documents.
13. Theft of post letter, etc.
14. Theft of post parcels.
15. Theft of mailable matter.
16. Theft of election documents.
17. Theft of railway tickets.
18. Theft of cattle.
19. Theft of domestic animals.
20. Theft of oysters.
21. Theft of things in buildings.
22. Theft of trees, etc.
23. Theft of plants in garden.
24. Theft of plants elsewhere.
25. Theft of fences, etc.
26. Theft of automobile.
27. Theft of ore.
28. Theft from the person.
29. Theft in dwelling-house.
30. Theft by false keys.
31. Theft from vessels, etc.
32. Theft of wrecks.
33. Theft from railway.
34. Theft from Indian graves.
35. Theft of things not provided for.
36. Theft to value over $200.
37. Theft of goods in manufacture.
38. Disposing of things left for manufacture.
39. Fraudulently taking stray cattle.
40. Taking drift timber.
41. Concealing things.
42. Bringing stolen goods into Canada.
43. Evidence generally.

1. Theft is the act of fraudulently and without any claim of right taking, or converting to his own use or the use of a

third person any property, with intent to deprive the owner or a person having an interest in it, of such property, or to pledge it, or to do anything with it so that it cannot be restored.

Theft is committed as soon as the offender moves, causes to be moved, or begins to cause the article to become moveable. Practically every thing is capable of being stolen under the Criminal Code, but a corpse cannot be the subject of theft nor can a wild creature usually to be found in Canada once it has escaped and is not being pursued. At Common Law a large number of articles could not be the subject of larceny.

Among these were things growing out of the ground; animals wild by nature but tamed; these are now covered by the Code, subject to the above.

During co-habitation a husband or wife cannot be convicted of stealing the property of the other, but they may be convicted if the article is taken with the intention to desert or while living apart. It is theft if a person receive anything on terms requiring him to account to a third person should he convert the thing to his own use: (Theft defined, ss. 344-57). The difference between theft and false pretences, broadly, is that in theft the owner does not intend to part with the thing taken, while in false pretences he parts with it voluntarily but by reason of misrepresentations. (See "FALSE PRETENCES.")

2. THEFT BY KILLING A LIVING ANIMAL.

A.B., at , on , did kill one (NAME THE ANIMAL) *the property of C.D. with intent to steal the carcass, skin, plumage or part thereof contrary to section 369 (if cattle), 370 (if domestic animal above $20 in value) of the Criminal Code.*

Code, ss. 350, 369, 370. Indictable. (If a domestic animal under the value of $20 it is a Summary Conviction offence.)

Warrant to arrest is not required in the case of cattle, but is necessary in the case of domestic animals.

3. BY OWNER.

A.B., at , on , being the owner of a certain (NAME THE ARTICLE) *which he had delivered to one C.D.* (OCCUPATION) *for repairs and which the said C.D. made, by means of which the said C.D. then had a lien or special interest in the said* (ARTICLE) *for the cost of the repairs so made, he the said A.B., without the consent of the C.D., did fraudulently take the said* (ARTICLE) *out of the possession of the said C.D. without paying the costs of the said repairs, and did thereby commit theft contrary to the provisions of section (insert section dealing with the theft of the particular article; not the defining section 352) of the Criminal Code.*

4. OF ELECTRICITY.

A.B., at , on , did maliciously (OR *fraudulently*) *abstract* (OR *divert* OR *consume* OR *cause to be wasted*) *electricity from the wires of the* (NAME THE COMPANY) *by* (DESCRIBE THE METHOD USED) *contrary to section 386 of the Criminal Code.*

Code, ss. 351 and 386. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

5. BY PARTNERS IN MINING CLAIM.

A.B., at , on , being a co-partner with one C.D. in a certain mining claim (DESCRIBE THE CLAIM) *did secretly keep back* (OR *conceal*) *certain gold* (OR *silver*) *found in or upon or taken from such claim contrary to section 378 of the Criminal Code.*

Code, ss. 353, 378. Indictable.

WARRANT TO ARREST IS NECESSARY.

6. BY HUSBAND OR WIFE.

A.B., at , on , being the wife one C.D., then living apart from him (OR *intending to desert him* OR *deserting him*) *did steal* (ARTICLE), *the same being the personal property of the said C.D., contrary to section (insert the section number dealing with the article stolen) of the Criminal Code.*

Code, s. 354. Indictable.

7. BY PERSON REQUIRED TO ACCOUNT.

A.B., at , on , having received from one C.D. a sum of money (AMOUNT) *on terms requiring him, the said A.B., to account for* (OR *pay over*) *the said money to one E.F., he, the said A.B., did fraudulently convert the said money to his own use* (OR *fraudulently omit to account for or pay the same*), *contrary to the provisions of section 358 of the Criminal Code.*

Code, ss. 355 and 358. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

8. BY CLERK OR SERVANT, CASHIER OR GOVERNMENT OR MUNICIPAL EMPLOYEE.

A.B., at , on , being employed [2] *as a* [1] *clerk* (OR *servant*) *to C.D., did steal* (NAME THING STOLEN) *belonging to* (OR *then in the possession of*) *the said C.D., contrary to section 359 (a) of the Criminal Code.*

OR

[1] *Cashier* (OR *assistant cashier* OR *manager* OR *officer* OR *clerk* OR *servant*) *in the Bank, did steal* (STATE WHAT), *the property of the said Bank* (OR *lodged* OR *deposited with the said Bank*), *contrary to section 359 (b) of the Criminal Code.*

OR

[2] *in the service of His Majesty* (OR *of the Government of Canada* OR *the Province of* , OR *the Municipal Corporation of*), *did steal* (NAME THE THING), *the same being in his possession by virtue of his said employment, contrary to section 359 (c) of the Criminal Code.*

Code, s. 359. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

9. By TENANT OR LODGER.

A.B., at , on , did steal a certain chattel, to wit (STATE WHAT) *let, to be used by him by C.D., the owner thereof, contrary to section 360 of the Criminal Code.*

Code, s. 360. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

10. OF WILLS OR TESTAMENTARY INSTRUMENTS.

A.B., at , on , did steal the Last Will and Testament of C.D. (OR *the Codicil of the Last Will and Testament* OR *the Probate, etc.,* OR *Letters of Administration of, etc.*), *contrary to section 361 of the Criminal Code.*

Code, s. 361. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

11. OF DOCUMENTS OF TITLE TO LAND OR GOODS.

A.B., at , on , did steal one bill of lading (OR DESCRIBE THE DOCUMENT OF TITLE TO GOODS) (OR *a deed to land from C.D. to E.F. of lot , Town of*), *the property of one C.D., contrary to section 362 of the Criminal Code.*

Code, s. 362. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

12. OF JUDICIAL OR OFFICIAL DOCUMENT.

A.B., at , on , did steal a certain record in the case of C.D. vs. E.F. (OR, *writ,* OR NAME THE DOCUMENT) *belonging to and being in the office of the Court of the County of* , (OR *department of the Government of*), *contrary to section 363 of the Criminal Code.*

Code, s. 363. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

13. OF POST LETTERS, BAG, ETC.

A.B., at , on , did steal a post letter bag (OR *a post letter from a post letter bag* OR *from a post office* OR *from*

one C.D., employed in a post office, OR *from the mail;* OR *a post letter containing a sum of money, to wit, five dollars,* OR *a chattel, to wit* (DESCRIBE) OR *a valuable security, to wit, a bond* (DESCRIBE): OR *a sum of money, to wit, five dollars out of a post letter,* OR *a certain chattel* (DESCRIBE) OR *a valuable security, to wit, a bond of*), *contrary to the Criminal Code, section 364* (*clause*).

Code, s. 364. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

The Post Office Act which applies, defines "letter" to include package of letters; "mail" to include every conveyance by which letters are carried; "post letter," any letter transmitted by post or delivered or deposited in any post-office, letter-box or put anywhere under authority of the Postmaster-General, i.e., from the time it is posted until delivered. "Valuable security" is defined in the Code, ss. 2 (43) and 4, and post-cards and stamps are deemed chattels, s. 3.

14. OF POST LETTERS AND PARCELS NOT REFERRED TO ABOVE.

Follow form above, in s. 364.

Code, s. 365. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

15. OF MAILABLE MATTER, NEWSPAPERS, ETC.

Follow form in s. 364.

Code, s. 366. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

"Mailable matter" is defined in The Post Office Act, which applies, to mean anything which may be sent by post. If it is not covered by sections 364 or 365 it is covered by section 366, if stolen from any place under the control of the Postmaster-General or sent by mail.

16. Of election documents.

A.B., at , on , did steal (or *did unlawfully take from one C.D., the returning officer* (or other person) *having the lawful custody thereof,* or *from the polling subdivision at*), *from one C.D., a returning officer, having lawful custody thereof a writ of election* (or *a return to a writ of election,* or *a poll-book* or *voters' list* or *a ballot* or as the case may be) *drawn in accordance with the Dominion* (or name of province) *Election Act* (or *for the municipal elections for the City of*), *contrary to section 367 of the Criminal Code.*

Code, s. 367. Indictable.

Warrant to arrest is not required.

Destruction, etc., of election documents, see Code, s. 528.

17. Of railway or steamboat tickets.

A.B., at , on , did steal a ticket for a passage from to , on (*name of tramway, railway or steamship company*) *from one C.D.* (or *from the Railway Co.*), *contrary to section 368 of the Criminal Code.*

Code, s. 368. Indictable.

Warrant to arrest is not required.

Obtaining passage by false ticket, see Code, s. 412.

18. Of cattle.

A.B., at , on , did steal one horse from C.D., contrary to section 369 of the Criminal Code.

Code, s. 369. Indictable.

Warrant to arrest is not required.

"Cattle" is defined in s. 2 (5) to include horse, mule, ass, swine, sheep or goat, as well as any neat cattle or animal or animal of the bovine species, etc., and applies to one animal as well as many. The brand on cattle is prima facie evidence of ownership, section 988. The accused may be convicted under sec. 392 (see sec. 953).

19. Of dogs, birds and other domestic animals.

A.B., at , on , did steal one dog (or *one goose* or *three hens* or as the case may be) *the same being of a value of more* (or *less*) *than twenty dollars, the property of C.D., contrary to section 370 of the Criminal Code.*

Code, s. 370. Indictable if the value over $20; Summary Conviction under the value of $20.

Warrant to arrest is necessary.

If pens or barns are broken into the offence is covered by section 460. "Shop-breaking," provided that such pen or barn is within the curtilage of the dwelling-house—meaning, in the enclosure with it.

20. Of oysters or oyster brood.

A.B., at , on , did steal oysters (or *oyster brood*) *from an oyster bed in the harbour at* , (or describe it by name or otherwise), *the property of C.D., contrary to section 371 of the Criminal Code.*

Code, s. 371 (1). Indictable.

Warrant to arrest is not required.

Using any dredge or net for the purpose of taking oysters in an oyster bed, the property of another person, which is sufficiently marked out is indictable.

Code, s. 371 (2), see section 864 (e).

Warrant to arrest is not required.

21. Of things fixed to buildings, fences or burial grounds.

A.B., at , on , did steal a quantity of glass (or *woodwork* or *lead* or *copper* or other thing or fixtures, describing it), *the property of C.D., then fixed in a certain building, to wit* (describe) (or used as a fence to a dwelling-house, garden, street, park or burial ground, describing which one), *contrary to the Criminal Code, section 372.*

Code, s. 372. Indictable.

Warrant to arrest is not required.

22. OF TREES, SHRUBS, ETC.

A.B., at , on , did steal one ash (OR *maple,* OR AS THE CASE MAY BE) *tree of the value of*[1] *twenty-five dollars or more, the property of C.D., then growing in a certain* (DESCRIBE THE PLACE)[1] *of five dollars or more the property of C.D. then growing in a certain park* (OR *garden* OR *orchard* OR *in the grounds adjoining the dwelling-house of the said C.D.*), *contrary to the Criminal Code, section 373 (1).*

Code, s. 373. Indictable, or if the damage done is under 25c, it is a Summary Conviction case.

WARRANT TO ARREST IS NECESSARY.

23. OF PLANTS, ETC., GROWING IN A GARDEN.

Form of information as in section 373, No. 22, making necessary changes.

Code, s. 374. Summary Conviction. Second offence is indictable.

WARRANT TO ARREST IS NECESSARY.

24. OF PLANTS, ETC., GROWING ELSEWHERE THAN AS ABOVE.

which is used as food for man or beast, or for medicine, or distilling, or dyeing, or in the course of manufacture.

Form of information as in section 373, No. 22.

Code, s. 375. Summary Conviction.

WARRANT TO ARREST IS NECESSARY.

25. OF FENCES, STILES, GATES, ETC.

A.B., at , on , did steal part of a fence, to wit, a wooden post (OR *rail used as a fence,* OR *a stile,* OR *a gate*), *the property of C.D., contrary to section 376 of the Criminal Code.*

Code, s. 376. Summary Conviction.

WARRANT TO ARREST IS NECESSARY.

26. OF AUTOMOBILES.

A.B., at , on , did steal one automobile, License No. , the property of C.D., contrary to section 377 of the Criminal Code.

Code, s. 377. Indictable.

WARRANT TO ARREST IS NECESSARY.

For unlawful taking, which does not amount to theft, see heading "AUTOMOBILE," section 285 (3).

27. OF ORES FROM A MINE.

A.B., at , on , did steal from the mine gold ore (OR DESCRIBE THE ORE), *the property of the Mining Co.* (OR *His Majesty*), *contrary to section 378 of the Criminal Code.*

Code, s. 378. Indictable.

WARRANT TO ARREST IS NECESSARY.

Unlawful possession of ore, see sec. 424(d), see "ORE," and section 866. In proceeding against workmen, the possession by them is prima facie evidence of theft; section 988.

28. FROM THE PERSON.

A.B., at , on , did steal the sum of five dollars (OR DESCRIBE WHAT WAS STOLEN) *from the person of C.D., contrary to section 379 of the Criminal Code.*

Code, s. 379. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

The thing stolen must be taken from the person. If violence is used it is robbery.

29. IN A DWELLING-HOUSE.

A.B., at , on , in a certain dwelling-house of C.D. did steal certain goods and chattels of C.D., to wit (DESCRIBE)[1] *to the value of twenty-five dollars or more, contrary to section 380 (a) of the Criminal Code.*

OR

[1] *and did threaten to assault the said C.D.* (or *one E.F.*), *causing him to be in bodily fear, contrary to section 380 (b) of the Criminal Code.*

Code, s. 380. Indictable.

Warrant to arrest is not required.

The offence of stealing in the dwelling-house with threats of violence, such as the pointing of a pistol, may be punished as robbery. Robbery is theft accompanied with violence or threats of violence.

30. By false keys, etc.

A.B., at , on , by means of a pick-lock (or *false key*) *did steal the sum of $* (or state what) *from a locked receptacle the property of C.D., contrary to section 381 of the Criminal Code.*

Code, s. 381. Indictable.

Warrant to arrest is not required.

31. From vessels, wharves, etc.

A.B., at , on , did steal certain goods or merchandise, to wit (state what) *in a vessel called the , in the port of* (or *from a certain dock or wharf adjacent to the port of , contrary to section 382 (clause) of the Criminal Code.*

Code, s. 382. Indictable.

Warrant to arrest is not required.

Theft in a vessel is apparently complete when the thing is moved, but in the case of a wharf, the thing must be taken "from" the wharf.

32. Of wrecks and parts thereof.

A.B., at , on , did steal (*describe article*) *a portion of the cargo of a vessel called then and there stranded* (or *sunk* or *wrecked*) *contrary to section 383 of the Criminal Code.*

Code, s. 383. Indictable.

Warrant to arrest is not required.

By sec. 2(44) wreck includes the cargo, stores and tackle of any vessel separated therefrom and also the property of shipwrecked persons.

33. From railway.

A.B., at , on , did steal in or *from the railway* [1] *station of Railway Co.* (or [1] from any building engine or vehicle naming it) *a certain* (*describe what*) *the property of C.D.* (or *of the said company*) *contrary to section 384 of the Criminal Code.*

Code, s. 384. Indictable.

Warrant to arrest is not required.

"In or from" is not two offences, the information may therefore be so worded.

34. From Indian graves.

A.B., at , on , did steal (or *injure* or *remove an image* (or *bones* or article stating what) *deposited in or near an Indian grave situated , contrary to section 385 of the Criminal Code.*

Code, s. 385. Summary Conviction.

Warrant to arrest is necessary.

35. Of things not otherwise provided for.

A.B., at , on , did steal (state what) *to the value of $, contrary to section 386 of the Criminal Code.*

Code, s. 386. Indictable.

Warrant to arrest is not required.

36. Where the value is over $200.

The information should state the value of the goods as under section 387 where the value is over $200 the punishment is increased.

37. Of goods in the process of manufacture.

A.B., at , on , did steal certain woollen goods (or describe article) *of the value of two dollars or more the property of one C.D. while the said goods were placed* (or *exposed*) *during a certain stage, process or progress of the manufacture thereof in or upon the premises of the said C.D. contrary to section 388 of the Criminal Code.*

Warrant to arrest is not required.

38. Fraudulently disposing of things entrusted for manufacture. If the offence does not come within the terms of section 388, it is an offence to fraudulently dispose of goods entrusted for manufacture.

Code, s. 389. Indictable.

Warrant to arrest is necessary.

39. Fraudulently taking stray cattle.

A.B., at , on , fraudulently and without the consent of the owner one C.D. did[1] *take* (or *hold* or *keep in his possession,* or *conceal* or *receive* or as the case may be in words of section) *a certain steer* (or other cattle) *which was found astray contrary to section 392(a) of the Criminal Code.*

or

[1] *fraudulently refuse to deliver up a certain steer which was found astray the property of one C.D. upon demand, contrary to section 392(b).*

or

[1] *fraudulently and without the consent of C.D. the owner thereof wholly* (or *partially*) *obliterate* (or *alter* or *deface* or *make a false*) *a brand mark on a certain steer contrary to section 392(c).*

Code, s. 392. Indictable.

Warrant to arrest is necessary.

See comments under "Theft of cattle, No. 18."

40. Taking drift timber, without the consent of the owner, taking, keeping in possession, concealing, etc., timber, mast, saw logs, etc., or chains, or defacing the marks thereon, or refusing to deliver up.

See form of information above as in case of stray cattle, No. 38.

Code, s. 394. Indictable.

Warrant to arrest is necessary.

Evidence of ownership, sec. 990.

41. Concealing things capable of being stolen.

A.B., at , on , did take (or *remove* or *conceal*) *one horse* (or name thing) *the property of C.D., with intent to defraud.*

Code, s. 397. Indictable.

Warrant to arrest is necessary.

See section 863.

42. Bringing stolen property into Canada.

A.B., at , on , did unlawfully bring into the Dominion of Canada certain property (describe it) *which had been stolen by the said A.B.* (or *which said A.B. knew had been stolen*) *in the City of Buffalo in the State of New York one of the United States of America* (or as the case may be), *contrary to section 398 of the Criminal Code.*

Code, s. 398. Indictable.

Warrant to arrest is not required.

Definition of property, Code, s. 2(31).

43. Evidence.—A presumption arises against the accused by his possession of stolen goods, or his recent possession of them. If the section creating the offence provides different procedure where the amount stolen is under a certain sum, the value of the goods must be shown on the information. If ownership of the goods stolen is not known they must be proved to belong to some person other than the accused. An accused may be convicted of the attempt if that only is proved (sec. 949). In postal offences the place of trial may be as set out in section 584(a).

See also "FALSE PRETENCES," BREACH OF TRUST" and "FRAUD."

THREATS

See "EXTORTION," "THREATS," "HOMICIDE" and "BINDING OVER."

THREATS TO BURN OR DESTROY

Sending, delivering or uttering or directly or indirectly causes to be received knowing the contents thereof, any letter or writing threatening to burn or destroy any building, or rick or sack of grain, or agricultural produce, standing or in any building, or ship.

Code, s. 516. Indictable.

A.B., at , *on* , *did send* (OR *deliver* OR *utter* OR *cause to be received*) *knowing the contents thereof, to one C.D., a letter or writing threatening to burn* (OR *destroy*) *the buildings* (OR *stack of grain* OR *hay or straw* OR NAME THE PRODUCE) *of the said C.D. at* (THE PLACE WHERE THE BUILDING OR GOODS ARE LOCATED IF GIVEN) *contrary to section 516 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Verbal threats are not included. If verbal threats are made a complaint may be laid before a justice and the accused may be compelled to enter into a bond to keep the peace (Code, s. 748). Prove that the accused sent the letter and give the letter in evidence. Posting the letter is uttering it. Dropping it where the accused knew the prosecutor would find it is uttering. The handwriting may be proved by an expert or by any one who knows the accused's handwriting.

THREATS TO INJURE CATTLE

Sending, delivering or uttering or directly or indirectly causing to be received, knowing the contents thereof, any letter or writing threatening to kill, wound, poison or injure any cattle.

Code, s. 538. Indictable.

A.B., at , *on* , *did send* (OR *deliver* OR *utter* OR *cause to be received*) *knowing the contents thereof, a letter to one C.D., threatening to kill* (OR *maim* OR *wound* OR *poison* OR *injure*) *his cattle, contrary to section 538 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—By sec. 2(5) cattle includes horse, mule, ass, swine, sheep or goat, animal of the bovine species, and applies to one animal as well as many. Proof of the handwriting may be made by an expert or by any person who knows the accused's writing. The letter or writing must be given in evidence. Uttering merely means using or sending; if it were posted it would be uttered.

TICKET OF LEAVE ACT, R.S.C., 1927, CHAP. 197

Every holder of a license under the Ticket of Leave Act is required to report once a month to the chief constable or sheriff, and is also required to notify him of changes of residence. If he fails to do so he is guilty of an offence and liable on summary conviction to have his license cancelled. A police constable may arrest without warrant any holder of a license whom he reasonably suspects of having committed any offence, or if it appears to him that such convict is getting his livelihood by dishonest means.

TITLE DEEDS

Being principal or agent in any proceeding to obtain the registration of any title to land or any transaction which is to be put on the register knowingly and with intent to deceive, makes or is privy to any material false statement, or conceals from any judge or registrar any material document, fact or matter of information.

Code, s. 420. Indictable.

WARRANT TO ARREST IS NECESSARY.

TRADE MARKS AND FRAUDULENT MARKING OF MERCHANDISE

1. Forging and applying forged trade mark.
2. Selling goods with forged trade mark.
3. Removing trade marks or filling trade-marked bottles.

1. With intent to defraud (a) forges any trade mark; (b) falsely applies trade mark or a mark calculated to deceive; (c) making die, etc., for forging a trade mark; (d) applies to any goods a false trade description; (e) has in possession any die, etc., for the purpose of forging a trade mark; (f) causes any such thing to be done.

Code, s. 488. Indictable.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Limitation is 3 years. Subsection 2 provides that the burden of proof of the assent of the proprietor in a prosecution for forging a trade mark is on the accused. Section 486 provides every one is deemed to forge who without assent of the proprietor makes the trade mark or a mark so nearly resembling it as to be calculated to deceive; or falsifies any genuine trade mark. Section 487 provides that every one is deemed to apply a trade mark, or trade description who (a) applies it to the goods themselves; (b) or to any covering, label, etc.; (c) encloses or annexes goods in a covering having a trade mark thereon; (d) uses any trade mark or description in a manner calculated to deceive. A person charged with making any die, etc., shall be discharged, but is liable to pay the costs unless he has given notice that he will rely on this defence, if he prove that in the ordinary course of business he is employed by other persons to make the dies, etc., or that he took reasonable precautions against committing the offence, or that he had no reason to suspect the genuineness of the mark, and that he gave the prosecutor all the information in his power (section 494). No servant acting on instructions of his master is liable (section 495).

False trade description is defined in section 335(n) Code. Goods mean anything which is merchandise or the subject of trade or manufacture (section 335(o)). Trade Mark means a mark registered under the Trade Mark and Design Act, see section 335(v). Trade description is defined, see sections 335(w) and 337.

2. Selling, having or exposing for sale any goods to which a forged trade mark or false trade description is applied, or one so nearly resembling it as to be calculated to deceive, unless the accused prove that he took reasonable precautions against committing an offence and had no reason to suspect the genuineness and on demand gave all reasonable information to the prosecution and that he acted innocently.

Code, s. 489. Indictable.

WARRANT TO ARREST IS NECESSARY.

Limitation is 3 years.

3. Wilfully defacing, removing, etc., any trade mark or the name of another person from bottles, cans, syphons, casks, etc., with intent to defraud owner; or being a manufacturer, etc., fills trade-marked bottles, etc., with any beverage without the written consent of the owner of the trade mark.

Code, s. 490. Indictable.

A.B., at , on , [1] *did wilfully deface* (OR *remove* OR *conceal*) *the trade mark of one C.D. duly registered* (OR *the name of one C.D.*) *on a cask* (OR NAME THE ARTICLE) without the *consent of the said C.D. and with intent to defraud him contrary to section 490(a) of the Criminal Code.*

OR

[1] *being a manufacturer* (OR *dealer* OR *trader* OR *bottler*) [2] *did trade* (OR *traffic*) *in a bottle* (OR *syphon*) *which had upon it the trade mark of one C.D. duly registered* (OR *the name of one C.D.*) *without the written consent of the said C.D.*

OR

[2] *did fill a bottle* (OR *syphon*) *which had upon it the trade mark of one C.D. duly registered* (OR *the name of one C.D.*) *with a certain beverage for the purpose of sale or traffic he the said A.B. not having the written consent of the said C.D. so to do,*

END *contrary to the provisions of section 490(b) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The using by a manufacturer of any bottle, etc., or the having by him of such or the fact that any junk dealer has in possession bottles with trade marks thereon without the written consent of the proprietor is prima facie evidence under the above section (subsection 2). It has been held that an intent to defraud need not be shown. The article in respect of which a conviction is made is forfeited (sec. 491(2)). Limitation 3 years.

TRADING STAMPS

1. Giving or selling to a merchant.
2. Giving by a merchant.
3. Receiving.

1. Giving or selling directly or indirectly or offering to a merchant for use in his business.

Code, s. 505(1). Indictable.

A.B., at , on , did issue (OR *give* OR *sell* OR *offer to give* OR *sell*) *a trading stamp to one C.D., a merchant* (OR *dealer in goods*) *for use in his business contrary to the Criminal Code, section 505(1).*

WARRANT TO ARREST IS NECESSARY.

2. Being a merchant, giving trading stamps to a purchaser of goods.

Code, s. 505(2). Indictable.

A.B., at , on , being a merchant (OR *dealer in goods*) *did give* (OR *offer to give*) *a trading stamp to one C.D. a purchaser from him of goods contrary to the Criminal Code, section 505(2).*

WARRANT TO ARREST IS NECESSARY.

3. Being a purchaser of goods from a merchant or dealer receives or takes a trading stamp.

Code, s. 505(4). Summary Conviction.

A.B., at , on , being a purchaser of goods from one C.D. a merchant did receive from the said C.D. a trading stamp, contrary to the Criminal Code, section 505(4).

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—The officers of a corporation who aids or abets in the distribution of trading stamps are guilty of an indictable offence (s. 505(3)). A trading stamp includes any form of cash receipt, receipts, coupon, premium ticket or other device intended to be given to the purchaser of goods and to represent a discount on the price of the goods or a premium which is redeemable; by any person other than the vendor, or person from whom he purchased the goods or the manufacturer of the goods; by any of the above in cash or goods not exclusively his; by the seller at a place other than where the goods are purchased; or which does not show the place of delivery and the merchantable value, or is not redeemable at any time (Code, s. 335(x). A ticket given to the purchaser of goods authorizing him to vote in a popularity contest for prizes is a trading stamp. An offer, printed or marked by the manufacturer upon any wrapper, box or receptacle in which goods are sold, of a premium or reward for a return of such wrappers is not a trading stamp (Code, s. 335(2)).

TRAITOROUS ACTS

1. Inciting to commit.
2. Communicating information.

1. Inciting any person serving in His Majesty's sea or land forces to commit traitorous or mutinous practice of inciting from his duty and allegiance to His Majesty.

Code, s. 81. Indictable.

Warrant to arrest is not required.

Evidence.—The endeavor to seduce from duty must be in pursuance of a traitorous or mutinous purpose; it must be to forward some design which is treasonable. If it were done because of conscientious objections it would not be traitorous. Section 82 of the Code covers the offence of persuading to desert, see "Deserters." See also "Treason."

2. Communicating information obtained whilst holding office under His Majesty, either to a foreign state or to any other person.

Code, s. 86. Indictable.

Warrant to arrest is not required.

Consent of the Attorney-General of Canada is necessary to prosecute (Code, s. 592).

Evidence.—The section applies to persons holding contracts with any department of the governments of the United Kingdom, Canada or any province where such contract involves an obligation of secrecy and to any one employed by such person. Whether the information communicated is correct or not is not material provided the accused believed it to be correct.

TRAPS

Setting a spring-gun, man-trap or other device calculated to destroy human life or inflict grievous bodily harm, with intent to harm any trespasser, etc.; or knowingly permits the same to exist.

Code, s. 281. Indictable.

A.B., at , on , did set (OR *place* OR *cause to be set* OR *placed* OR *knowingly and wilfully permit to continue set* OR *placed*) *in a certain barn* (OR DESCRIBE WHERE) *a certain spring-gun* (OR *man-trap*) *which was calculated to destroy human life* (OR *inflict grievous bodily harm*) *with intent that the same might destroy* (OR *inflict grievous bodily harm upon*) *any trespasser* (OR *person*) *coming in contact therewith contrary to the provisions of section 281 of the Criminal Code.*

Warrant to arrest is necessary.

Evidence.—Seize and produce in evidence the spring-gun or trap. Show where it was placed and how operated. The section does not apply to traps for animals, but it is submitted that the onus is upon the defence to show that a spring-gun or trap trained on a door of a barn was not put there for the purpose of injuring trespassers.

TREASON AND TREASONABLE OFFENCES

1. The offence.
2. Assisting alien enemies.
3. Entering Canada to levy war.
4. Forming intent to depose the King.

1. Treason is killing His Majesty, doing him bodily harm tending to death or destruction, imprisoning or restraining him, or forming by an overt act an intention to do the above; or killing his eldest son and heir or the Queen, or forming by an overt act the intention to do the above; or conspiring to kill His Majesty or do him bodily harm as above or imprisoning or restraining him; or levying war against the King to depose or intimidate him or Parliament or conspiring to do so; or instigating a foreigner to invade Canada or any British territory for any of the aforesaid purposes; or assisting the enemy at war with His Majesty; or violating, with her consent or not, the Queen or wife of the heir apparent.

Code, s. 74. Indictable.

Warrant to arrest is not required.

Corroboration is necessary. Limitation is 3 years, except for killing His Majesty or attempting to injure him, and see section 1141(2).

2. Inciting or assisting alien enemy to leave Canada without the consent of the Crown, unless assistance to the enemy was not intended; or being an accessory after the fact to treason; or knowing that any person is about to commit treason does not give such information to a justice or use other means to prevent the act.

Code, s. 76. Indictable.

Warrant to arrest is not required.

3. The subject of a foreign state at peace with His Majesty who is in arms against His Majesty in Canada, or commits any act of hostility, or enters Canada to levy war or to commit any offence for which the penalty is death; or being a British subject levies war against His Majesty with a subject of a foreign state; or enters Canada with any such subject with intent to levy war; or intending to aid joins anyone who has entered Canada to levy war.

Code, s. 77. Indictable.

Warrant to arrest is not required.

4. Forming an intention to depose the King; or forming an intention to levy war against the King; or forming an intention to move or stir any foreigner to invade Canada or British territory; and manifesting any such intention by conspiring or by any overt act or by any writing.

Code, s. 78. Indictable.

Warrant to arrest is not required.

Limitation 3 years—in cases of speaking it is 6 days (s. 1141(2)).

Assaults on the King, see "Assault."

See "Traitorous acts."

TREES, ETC.

Injury to, see "Injury."

Unlawful possession of, see "Possession" and "Theft."

TRIAL, PLACE OF

Where the offence is committed on water or on a bridge between two or more magisterial jurisdictions, or if committed on the boundary or within five hundred yards thereof; or where begun in one and completed in another, the trial may be in either, sec. 584. In Ontario any offence committed in unorganized tracts of land may be tried in any district or county, sec. 585; and a prisoner in any judicial district may be committed to any gaol in the province, sec. 585(3). If a prisoner is in gaol or is arrested in one county for trial there and is wanted for offences committed elsewhere *in the same province* (sec. 888), all the offences may be tried where the prisoner is in custody, sec. 577. A prisoner cannot be *brought* into the county so as to give the court there jurisdiction to try an offence committed outside that county. The ordinary rule which is superseded by the above is that an accused is entitled to trial in the county where the offence was committed.

UNIFORM

Wearing without authority, see "Decoration."

UNLAWFUL ASSEMBLIES AND RIOTS

1. Being a member of.
2. Being a rioter.
3. Reading the Riot Act.
4. Riotous destruction of property.
5. Suppressing a riot.
6. Evidence.

An unlawful assembly is an assembly of three or more persons who, with intent to carry out a common purpose, assemble or so conduct themselves as to lead persons to think they intend to disturb the peace or will provoke other persons to do so (Code, s. 87).

1. Being a member of an unlawful assembly.

Code, s. 89. Indictable.

A.B., at , on , with other persons to the number of three or more with intent to carry out the common purpose of assaulting one C.D. (OR *of causing a breach of the peace* OR STATING WHAT THE COMMON PURPOSE WAS) *did assemble themselves in such a manner* (OR *so conduct themselves when assembled*) *as to cause persons in the neighborhood to fear on reasonable grounds that the said A.B. with the other persons there assembled, would disturb the peace tumultuously* (OR *would by such assembly needlessly and without any reasonable occasion provoke other persons to disturb the peace tumultuously*) *contrary to section 89 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

2. A riot is an unlawful assembly which has begun to disturb the peace tumultuously.

Being a rioter.

Code, s. 90. Indictable.

A.B., at , on , (ADD TO ABOVE EXAMPLE) *and being so assembled together did then and there actually begin and continue for a long time to disturb the peace tumultuously contrary to section 90 of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

3. If twelve or more rioters are assembled the sheriff, deputy sheriff, mayor or other head officer, or any justice should go to the place, command silence and then in a loud voice read the Riot Act, as follows:

"Our Sovereign Lord the King charges and commands all persons being assembled immediately to disperse and peaceably to depart to their habitations or to their lawful business, upon the pain of being guilty of an offence on conviction of which they may be sentenced to imprisonment for life. GOD SAVE THE KING" (sec. 91).

Hindering or preventing the reading of the above; or not dispersing after the proclamation has been read.

Code, s. 92. Indictable.

A.B., at , on , with other persons to the number of twelve or more, riotously and tumultuously assembled together to the disturbance of the public peace, whereupon C.D. Esquire one of His Majesty's justices of the peace for the said county of , resorted to the place where such unlawful riotous and tumultuous assembly was gathered and as near to the said rioters as he could safely come, then and there [1] *began* (OR *was about*) *to make the proclamation in the words and manner prescribed by section 91 of the Criminal Code,* [2] *did with force and arms wilfully oppose* (OR *hinder* OR *hurt*) *the said C.D. by means whereof the said C.D. was prevented and the said proclamation was not made, contrary to section 92(a) of the Criminal Code.*

OR

[1] *did make the proclamation in the words and manner prescribed by section 91 of the Criminal Code* (OR [2] *when prevented with force and arms so that such proclamation was not made*) *and the said A.B., notwithstanding the proclamation so made* (OR *knowing that the making of such proclamation was hindered as aforesaid*) *did continue together with other persons to the number of twelve or more for thirty minutes after such proclamation had been made as aforesaid* (OR *after the making of such proclamation was hindered as aforesaid*) *contrary to section 92(b) of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

Limitation is 1 year.

4. Riotous destruction of property is whilst assembled together riotously and tumultuously to the disturbance of the public peace demolish or pull down (or injure or damage (sec. 97)) with force any building or machinery or any erection used in trade or manufacture or any structure at any mine.

Code, s. 96 or 97. Indictable.

A.B., at , on , with other persons to the number of three or more riotously and tumultuously assembled together to the disturbance of the public peace did unlawfully and with force demolish (OR *pull down* OR *begin to demolish* OR *pull down* OR *injure* OR *damage*) *a certain building* (OR DESCRIBE THE THING DAMAGED) *contrary to section 96* (OR *97 if the thing was merely injured or damaged*) *of the Criminal Code.*

WARRANT TO ARREST IS NOT REQUIRED.

5. SUPPRESSING A RIOT.

By section 48, 49 and 50, every police officer is justified in using such force as he on good faith and on reasonable and probable grounds believes to be necessary to suppress a riot not disproportionate to the danger which he believes might be caused by a continuance of the riot, or if ordered by the sheriff, mayor or justice he is protected from criminal responsibility in obeying such orders unless he know or ought to have known them to be unlawful.

If the rioters do not disperse for thirty minutes after the reading of the Riot Act it is the duty of every police officer to arrest them and if any person so sought to be arrested by reason of resistance is killed every person is indemnified against all proceedings (sec. 93). If a sheriff, mayor, justice of peace or officer neglects his duty in suppressing a riot he is guilty of an offence.

Code, s. 94. Indictable.

WARRANT TO ARREST IS NOT REQUIRED.

Neglecting to aid in suppressing a riot when requested by a sheriff, mayor, justice or peace officer.

Code, s. 95. Indictable.

The Attorney-General may call out the Militia to suppress a riot.

The use of batons by police officers is justified in dispersing a riot, but as violence invites violence more reasonable means should first be exhausted. Firearms should not be used except in the most extreme cases and then only in self-defence.

6. EVIDENCE.—An assembly of three or more persons for the purpose of protecting the home of one of their number from persons threatening to break and enter such house is not an unlawful assembly (sec. 87, ss. 3). It is not a defence to the charge of riotous destruction of property that the accused believed he had the right to act as he did; unless he actually had such right (sec. 97, ss. 2). It is not necessary in order to constitute an unlawful assembly that the purpose for which the persons assemble together is an unlawful purpose, an intention to do a lawful act in a violent and turbulent manner is as much a breach of the law as if the intended act were illegal. It is the manner in which it is done which constitutes the offence.

UNLAWFUL ASSOCIATIONS

See "SEDITIOUS OFFENCES."

UNLAWFUL DRILLING

After proclamation by the Governor in Council published in the Canada Gazette prohibiting the same, is present at or attends any unlawful drilling either as instructor or for the purpose of being drilled.

Code, s. 99. Indictable.

WARRANT TO ARREST IS NECESSARY.

Limitation is 6 months.

VAGRANCY

(a) Having no visible means of subsistence, is found wandering abroad or lodging in any barn or deserted building, etc., and not giving a good account of himself and who not having any visible means of maintaining himself, lives without employment;

(b) being able to work refusing or neglecting to maintain himself and family;

(c) exposing any indecent exhibition in any street, or public place;

(d) asking alms without having a certificate signed, within six months, by a priest, clergyman or minister of the Gospel or two justices of the municipality where alms are being asked, that he is a deserving object of charity;

(e) Loitering on the street and obstructing passengers, or using insulting language;

(f) causes a disturbance in any street or public place, by screaming, swearing or singing, or by being drunk or by impeding or incommoding peaceable passengers;

(g) discharging firearms, or riotous or disorderly conduct on the street wantonly disturbing residents;

(h) tears down signs, breaks windows or doors, etc., or destroys fences.

(i) being a common prostitute wanders about and does not give a satisfactory account of herself.

(j) having no peaceable profession or calling maintains or partly supports himself by gaming or crime or by the avails of prostitution.

Code, s. 238. Summary Conviction.

(*a*) *A.B., at , on , not having any visible means of subsistence, was found unlawfully wandering abroad* (OR *was found lodging in a barn,* OR *outhouse,* OR *in a deserted* OR *unoccupied building* OR *as the case may be*);

OR

(*b*) *being able to work and thereby to maintain himself and family wilfully and unlawfully refused or neglected to do so;*

OR

(*c*) *did openly expose or exhibit in a street* (OR *other place mentioned in the section*) *an indecent exhibition, to wit* (*describe it*);

OR

(*d*) *was wandering about and begging* (OR *did unlawfully go from door to door,* OR *otherwise as mentioned in the section*)

without a certificate signed within six months, by a priest or clergyman or minister of the gospel or two justices of the peace as by law required;

OR

(*e*) *did loiter on a public street* (OR *other place as mentioned in the section*) *and obstruct passengers by standing across the footpath* (OR *by using insulting language*) *to wit* (*state the language used or other manner any passenger was obstructed*);

OR

(*f*) *did cause a disturbance in* (OR *near*) *a street* (OR *other place mentioned in the section*) *by screaming* (OR *swearing* OR *singing* OR *by being drunk* OR *by impeding* OR *incommoding peaceful passengers*);

OR

(*g*) *by discharging firearms* (OR *by riotous,* OR *disorderly conduct,* (*describe the conduct*)) *wantonly disturbed the peace and quiet of the inmates of the dwelling-house of C.D. situate near the said street;*

OR

(*h*) *did tear down* (OR *deface*) *a sign* (OR *break a window* OR *other thing mentioned in the section, describing it*);

OR

(*i*) *being a common prostitute wandered in the street* (OR *other place mentioned in the section*) *and upon demand being thereupon made of her by C.D. a peace officer, did not give a satisfactory account of herself;*

OR

(*j*) *having no peaceable profession or calling to maintain himself by, for the most part supports himself by gaming* (OR *by crime,* OR *by the avails of prostitution of C.D.*),
contrary to section 238 (*naming the correct subsection*) *of the Criminal Code.*

WARRANT TO ARREST IS REQUIRED.

EVIDENCE.—(a) the gist of the offence is not having visible means of support and not giving a good account of himself.

(b) If accused is working he may be prosecuted under Code, s. 242. (d) In most municipalities there is a by-law forbidding begging; the certificate under this section would not permit begging without a permit of the municipality. (e) Loitering is not enough, obstructing passengers must be shown, (f) the gist of the offence is "causing a disturbance." (g) It must be wanton. (i) A prostitute must be asked to give an account of herself and it must be unsatisfactory. (j) Living on the avails is usually proved by showing that C.D. is a prostitute and pays the room rent where A.B. lives or gives him money for food; see also "PROCURING, 2."

VENEREAL DISEASES

1. Communicating. 2. Advertising cure.

1. Knowingly or negligently communicating to any person.

Code, s. 307. Summary Conviction.

A.B., at , on , did knowingly or by culpable negligence communicate a venereal disease to one C.D., contrary to the Criminal Code, section 307.

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Venereal disease means, syphilis, gonorrhea or soft chancre (s. 307(2)). The section provides that if the accused proves he had reasonable grounds to believe he was free of the disease he shall not be convicted; and that he shall not be convicted unless the evidence of the complainant is corroborated. Sexual intercourse is not the only method of communicating and any method is equally an offence. In Ontario it is provided that a doctor shall not divulge the names of persons whom he is treating for the disease. A druggist however might be subpœned to give evidence of purchases of medicines consistent with the treatment of venereal disease.

2. Advertises or publishes an advertisement for curing venereal diseases or diseases of the generative organs.

Code, s. 207(c). Indictable.

A.B., at , on , did advertise (OR *publish an advertisement of a means* (OR *instructions* OR *a medicine* OR *drug* OR *article*) *of curing venereal disease* (OR *diseases of the generative organs*) *contrary to section 207(c) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—No one shall be convicted if he proves that the public good was served by the act done (s. 207(2)). The motives of the advertiser is irrelevant (s. 207(4)).

WAREHOUSEMAN, FALSE RECEIPT BY

See "FRAUD BY WAREHOUSEMAN."

WARRANTS

A warrant is authority under signature of the person issuing it to apprehend an offender named therein for prosecution or to commit him to prison; to search premises, or to levy distress for non-payment of a penalty.

A warrant of arrest can only be issued after a sworn complaint or information. A warrant must not be issued in blank (Code, s. 659). A warrant should not be asked for unless there is a chance of the accused person failing to answer a summons. A man is considered innocent until proven guilty therefore it is essential that the case be carefully considered before obtaining a warrant to arrest. The warrant should be read over to the prisoner and when executed should be sent back to the court out of which it issued.

Further particulars regarding arrests with and without warrants, see "ARRESTS."

WARRANT TO SEARCH

See SEARCH.

WHITE-SLAVE TRAFFIC

See "PROCURING."

WIFE

Failure to provide for, see "NON-SUPPORT."

WILFUL

Wilful in offences under Part VIII. of the Code means any person who causes any event by any act which he knew would probably cause it, being reckless whether such event happens or not (Code, s. 509).

WITCHCRAFT

Telling fortunes or practising witchcraft or pretending by ocult science to tell where goods stolen may be found.

Code, s. 443. Indictable.

A.B., at , on , did undertake to tell fortunes (or *pretend to exercise witchcraft* or *sorcery* or *pretend from his pretended skill in an occult or crafty science to wit, (describe) to discover in what manner certain goods supposed to have been stolen* or *lost might be found) contrary to section 443 of the Criminal Code.*

Warrant to arrest is necessary.

See also "Conspiracy to Defraud," sec. 444.

Evidence.—Any kind of fortune telling is covered; by cards, crystal gazing or anything else unless it is stipulated or understood that the prediction of the future was made pursuant to certain rules and not because of the pretended occult powers of the accused. Deception is one of the elements. The fact that the accused himself believes he has the ability to commune with departed spirits is no defence.

WITNESS, CORRUPTING

See "Bribing or corrupting juror or witness."

WITNESS, MATERIAL

If a witness without means cannot produce sureties for his appearance, he may be committed by the justice to gaol until the trial (form 26 Code may be used). If a witness is on recognizance and is about to abscond, an information may be laid against him (s. 693), and he may be arrested on warrant.

A.B., at , on , being a material witness for the prosecution in the case of Rex v. C.D. charged with the offence of theft (or as the case may be) *and bound by recognizance to appear and give evidence before the General Sessions of the Peace for the County of York on the day of , 19 , did abscond* (or *was about to abscond*) *with the intention of not appearing as a witness aforesaid.*

A witness may also be arrested in the first instance on a warrant in Code form 14, s. 675.

A.B., being a person within the Province of is likely to give material evidence for the prosecution in the case of Rex v. C.D. charged with the offence of theft, (or as the case may be) *and will not attend to give evidence without being compelled to do so.*

When arrested a witness must not be treated as an ordinary prisoner, it has been laid down that he should not be searched. The only thing required of him is his appearance to give evidence.

WOUNDED OFFENDERS

If a man upon arrest requires hospital treatment he should not be kept in the custody of the police officer. Arrangements should be made to have the magistrate go to the hospital and remand the accused. The sheriff is then the responsible officer and he has the authority which a police officer has not, of incurring expenses for hospital treatment or for extra guards. If it is impossible to have this done, the police officer should obtain instructions from his superior officer or attempt to have the sheriff assume responsibility for payment.

WOUNDING

1 Generally.
2. Public officer.
3. Peace officer, or with intent to maim.

1. Wounding, or inflicting grievous bodily harm with or without an instrument.

Code, s. 274. Indictable.

A.B., at , on , did wound (or *inflict grievous bodily harm on*) *one C.D. contrary to section 274 of the Criminal Code.*

Warrant to arrest is not required.

Evidence.—A wound is usually a breaking in the skin; grievous bodily harm need not be either permanent or dangerous as long as it seriously interferes with health and comfort.

2. WOUNDING PUBLIC OFFICER engaged in execution of his duty, or any person aiding such officer.

Code, s. 275(b). Indictable.

A.B., at , on , did maim (OR *wound*) *C.D. a custom officer* (OR DESCRIBE) *engaged in* (DESCRIBE DUTY) (OR *did maim E.F. a person acting in aid of C.D. a custom officer engaged in the lawful execution of his duty, to wit* (DESCRIBE)), *contrary to section 275(b) of the Criminal Code.*

WARRANT TO ARREST IS NECESSARY.

EVIDENCE.—Public officer includes excise, customs, R.C.M.P., officer of army or navy or officer engaged in enforcing laws relating to revenue, customs, trade or navigation (sec. 2(33)). The information should describe the duty on which the officer was engaged. This section does not include peace officers other than those mentioned above. Wounding a police officer is covered by section 273, No. 3 or see "ASSAULT, 8."

3. WOUNDING WITH INTENT to maim, disfigure or disable or to prevent lawful arrest, or shoots at any person.

Code, s. 273. Indictable.

A.B., at , on , with intent to maim, (OR *to disfigure* OR *to disable*) *C.D.* (OR *with intent to resist the lawful apprehension of the said A.B.* OR *of one E.F. by C.D.*) *did unlawfully wound* (OR *cause grievous bodily harm* OR *shoot at the said C.D.* OR *attempt to discharge a loaded pistol* OR *gun at the said C.D.*) *the said C.D. contrary to section 273 of the Criminal Code.*

WARRANT TO ARREST NOT REQUIRED.

EVIDENCE.—The intent to maim or disable must be proved but may be inferred from the manner of the wound or the implement used; it can only be proved as a general rule by circumstances. If the accused draws a pistol and shoots at a person it may be attempted murder, the same punishment however is provided for both offences.

WRECKS

See "SHIPPING."